

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

UNITED STATES OF AMERICA

v.

GERMAN de JESUS VENTURA and
KEVIN GARCIA FUERTES,
Defendants

)
)
)
) Criminal Docket No. WDQ-10-0770
) Volume VII

Baltimore, Maryland
April 17, 2013
11:00 AM to 3:25 PM

**THE ABOVE-ENTITLED MATTER CONTINUED ON FOR
JURY TRIAL
BEFORE THE HONORABLE WILLIAM D. QUARLES, JR.**

A P P E A R A N C E S

On behalf of the Government:

Michael Cunningham, Assistant U.S. Attorney
Rachel Yasser, Assistant U.S. Attorney

On behalf of Defendant German de Jesus Ventura:

Gerald Ruter, Esquire

On behalf of Defendant Kevin Garcia Fuertes:

Michael D. Montemarano, Esquire

A P P E A R A N C E S (CONT.)

Also present:

HSI Special Agent Edward Kelly
Victoria Kirchgessner, Spanish Interpreter
Marta Goldstein, Spanish Interpreter

Reported by:

Martin J. Giordano, RMR, CRR, FOCR
U.S. Courthouse, Room 5515
101 West Lombard Street
Baltimore, Maryland 21201
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PROCEEDINGS OF APRIL 17, 2013

THE CLERK: All rise. The United States District Court for the District of Maryland is now in session, The Honorable William D. Quarles, Jr. presiding.

THE COURT: Ready for the jury, counsel?

MS. YASSER: Yes, Your Honor.

MR. MONTEMARANO: Yes, Your Honor.

MR. RUTER: Your Honor, one thing before we begin. I think the record should show that I had spent some period of time this morning with Mr. Ventura concerning his right to testify, and he has requested that the Court continue this trial for at least a week or two so that he has an opportunity to become more prepared for his testimony.

His -- he wants it also part of the record, Your Honor, that he believes I have not spent enough time with him in the past prior to the motions hearing on March the -- I think 13th or March 27th of this year, we had a motions hearing. And I had not seen him prior to that enough time for him to be able to prepare his defense or his right to testify or not to testify, and he feels he still has not had enough time even after meeting again this morning.

THE COURT: Okay. Ready for the jury?

MS. YASSER: Yes, Your Honor.

THE COURT: Send for the jury.

(Jury enters.)

1 **THE COURT:** Good morning. Please be seated.

2 Alternate Juror Number 1, please take Seat
3 Number 11. You are now Juror Number 11.

4 All the other alternates, move down. Alternate
5 Number 2, you become Alternate Number 1.

6 Alternate Number 3, you become Alternate Number 2.

7 Alternate Number 4, you become Alternate Number 3.

8 Thank you.

9 **MS. YASSER:** Thank you, Your Honor.

10 Good morning. Good morning, Special Agent Kelly.

11 **THE CLERK:** I'd like to remind you: You're still
12 under oath, and would you repeat your name again for the
13 record. Thank you.

14 **THE WITNESS:** Edward J. Kelly.

15 **THE CLERK:** Thank you, sir.

16 **EDWARD J. KELLY**

17 **WAS PREVIOUSLY DULY SWORN TO TELL THE TRUTH**

18 **DIRECT EXAMINATION (CONT.)**

19 **BY MS. YASSER:**

20 Q. Special Agent Kelly, when we left off yesterday, we had
21 played some consensual calls for the ladies and gentlemen of
22 the jury, and a series of those calls were to a number ending
23 in 5211. Do you recall that?

24 A. Yes, ma'am.

25 Q. And do you recall testifying how you obtained the number

1 ending in 5211 from the trash outside of McDonald's?

2 A. Yes, I do.

3 Q. I want to introduce what's been marked as Government
4 Exhibit Number 18 and ask you to please identify that exhibit
5 for the jury.

6 A. That's the receipt that I pulled out of the trash that
7 was deposited at the McDonald's.

8 Q. Now, after those consensual calls were placed to the 5211
9 number -- and, by the way, what location was that number
10 associated with?

11 A. [REDACTED], ma'am.

12 Q. There was a search at that location; is that correct?

13 A. Yes, there was.

14 Q. I want to show you what's been previously marked
15 Government's 25b/1 through b/5.

16 MS. YASSER: May I approach the witness, Your Honor?

17 THE COURT: Yes, you may.

18 BY MS. YASSER:

19 Q. Can you identify these for the ladies and gentlemen of
20 the jury.

21 A. They appear to be the phones that were recovered at [REDACTED]

22 [REDACTED].

23 Q. Did you conduct an analysis on these phones as well as
24 other phones recovered during the course of the investigation?

25 A. Yes. The phones were searched.

1 Q. I want to show you 25c. What is that?

2 A. That's a large box of Trojan condoms and rubbing alcohol.

3 Q. 25d?

4 A. Playing cards.

5 Q. And then finally 25e?

6 **THE REPORTER:** 25e.

7 **MS. YASSER:** "e."

8 **THE WITNESS:** Rubbing alcohol, and what appears to
9 be K-Y Jelly.

10 **BY MS. YASSER:**

11 Q. Jumping forward, we also talked about surveillance
12 yesterday that was conducted on August 2nd of 2010. Do you
13 recall that?

14 A. Yes.

15 Q. And you previously testified about what
16 Detective Hartlove, yourself, and agents in Norfolk, Virginia
17 observed, and that relates to Government's Exhibit 28e. Do
18 you recall that?

19 A. Yes.

20 Q. Now, at the time, were you and other officers involved in
21 the investigation up on any phones that were specifically
22 relevant to that surveillance?

23 A. Throughout the investigation, we ran multiple pen
24 registers with also precision locate, and they would also
25 obtain cell tower information.

1 Q. And what phone number were you up on at the time as it
2 relates to Defendant Ventura?

3 A. I know on that day, we had data for the phone number
4 ending 3124, [REDACTED]-3124, and we also had data on
5 [REDACTED]-4168.

6 Q. And, starting with the 3124 number, can you just explain
7 to the ladies and gentlemen of the jury how you associated
8 that number with Mr. Ventura?

9 A. That was the number that we directly associated with
10 Mr. Ventura as his personal line.

11 Q. And was he arrested with that phone on November 15th,
12 2010?

13 A. Yes, he was.

14 Q. With respect to the 4168 number, how did you associate
15 that phone with your investigation?

16 A. I believe, initially in the investigation, it was
17 identified because it had a high frequency; there was a lot of
18 phone calls to that number. So I believe that was the initial
19 reason we went up on that number, but subsequent, it was
20 identified as a number was used by Mr. Fuertes.

21 Q. And how so?

22 A. That was a number identified in two witness' phones as
23 the phone he used when he was in Virginia working for
24 Mr. Ventura in the prostitution.

25 Q. And we'll review those phone associations in a little

1 bit, but, with respect to those two phones, did you conduct an
2 analysis of the precision locate or cell tower information as
3 it relates first to 3124?

4 A. Yes. We were able to map the cell towers on those -- on
5 August 1st and August 2nd.

6 Q. And can you tell the ladies and gentlemen of the jury
7 generally what that analysis revealed.

8 A. That that phone was in Maryland on August 1st. It
9 traveled to Portsmouth, Virginia on August 2nd. Then it
10 returned from Portsmouth, Virginia to Maryland on August 2nd.
11 Then it traveled in and around Prince George's County on
12 August 2nd before returning to Portsmouth, Virginia at
13 approximately -- I think it was 7:30 p.m. that evening.

14 Q. And was that over the course of a Sunday and a Monday?

15 A. Yes. August 2nd was a Monday.

16 Q. I want to show you Government's 40e/1 and ask you to
17 please describe what this exhibit depicts.

18 A. That's a map of the cell towers that we were able to
19 identify that showed the phone moving through different areas.
20 The towers -- you get tower hits when the phone received or
21 placed a phone call, so the green tack at the top indicates
22 the initial tower we used to track the movement, which is
23 August 1st, 2010, at 9:10 p.m.

24 Q. And where did that phone end up that -- I guess the next
25 day, the next morning?

1 A. The last tower hit on this map is August 2nd at
2 1:23 a.m., and that's in the vicinity of Portsmouth, Virginia.

3 Q. Would that phone have had to have crossed any state lines
4 in order to end up in Portsmouth, Virginia?

5 A. Yes. At a minimum, it crossed the state line between
6 Maryland and Virginia.

7 Q. Government's 40e/2, what does that reveal?

8 A. That's the return trip that we mapped out on August 2nd
9 from Portsmouth, Virginia to Maryland.

10 Q. And at what time did it arrive back -- the phone first
11 hit back in Maryland?

12 A. So the initial hit, the green thumbtack, is, once again,
13 1:23 a.m., and then the next activity -- tower activity we
14 have was at 5:18 a.m. in Virginia, and then we have it
15 stopping at 7:11 a.m. in Maryland.

16 Q. And, that morning of August 2nd, was that when
17 Detective Hartlove surveilled Defendant Ventura outside of
18 [REDACTED]?

19 A. Yes.

20 Q. Government's 40e/3, what does that show, Detective, or
21 Special Agent Kelly?

22 A. Once again, we start the movement at 7:11 a.m., and then
23 we have the towers -- there are several hits around Prince
24 George's County, at 2:55 p.m. around the Washington, D.C.
25 Beltway area, and then returning to Portsmouth, Virginia at

1 7:28 p.m. on August 2nd.

2 Q. And can you remind the ladies and gentlemen of the jury
3 when it was that Detective Hartlove observed this woman in the
4 pink shirt get into Defendant Ventura's vehicle on that day?

5 A. I believe it was 1:30 p.m.

6 Q. And is that location where he observed the woman in the
7 pink shirt getting into the vehicle -- is that consistent with
8 what was happening on the phones?

9 A. There is no tower hit from 1:30 p.m., but there is a
10 tower hit for 2:55 p.m. in the vicinity where I would have
11 seen Mr. Ventura return to [REDACTED] for the
12 surveillance.

13 Q. And did that surveillance include observing Ventura
14 heading southbound at that time?

15 A. We left [REDACTED], and then the phone shows
16 southern movement.

17 Q. And was this woman in the pink shirt -- was she
18 subsequently identified?

19 A. Yes, she was.

20 Q. And how so? How did you identify her?

21 A. We ran the tags on the plate, and the tags came back to
22 her true name. We were able to run database checks, identify
23 her, obtain photographs, name, date of birth, other
24 identifiers.

25 Q. What is her name?

1 A. Bridgett Alcivar.

2 Q. Does she have a history of prostitution?

3 A. Yes. She was arrested for prostitution in Virginia.

4 Q. And I think you previously testified that there were
5 agents in Norfolk that observed -- that picked up Ventura as
6 well as this woman in the Virginia area later that night?

7 A. Yes. Agent Joseph was running a collateral case for us
8 out of Norfolk, Virginia, and she and her group intercepted
9 the vehicle and maintained physical surveillance of it to [REDACTED]

10 [REDACTED].

11 Q. I want to show you what's been marked as Government's
12 28e/12. Do you recognize that?

13 A. That's a photograph that was provided to me for [REDACTED]
14 [REDACTED] in Portsmouth, Virginia.

15 Q. And was that a suspected brothel, Special Agent Kelly?

16 A. Yes.

17 Q. And was there a consensual call made with respect to that
18 brothel?

19 A. Yes, there was.

20 Q. Now, you mentioned also analyzing a number ending in 4168
21 that was associated with Defendant Fuertes. Can you tell the
22 ladies and gentlemen of the jury where Defendant Fuertes'
23 phone was subsequent to this transport of Ms. Alcivar down to
24 Virginia.

25 A. That phone moved from Virginia to Maryland and back on

1 August 2nd, and then, on August 3rd at 12:30 in the -- 30
2 minutes after midnight, it would have been in -- at [REDACTED]
3 [REDACTED] with a -- I think a radius of 50 to 70 meters.

4 Q. And did you analyze that phone for information relating
5 to its whereabouts for the remainder of that week?

6 A. Yes. We conducted an analysis of the realtime data that
7 we had that showed that phone remained in Virginia that week.

8 Q. And what about the 3124 number associated with
9 Defendant Ventura? Where was that phone for the remainder of
10 that particular week?

11 A. That phone would eventually return to Maryland.

12 Q. Where it remained the rest of the week?

13 A. Yes. To the best of my knowledge, yes.

14 Q. With regards to contacts between these two numbers around
15 the same time on August 2nd of 2010, did you look at the tolls
16 to see if there were any communications between these two
17 phones on August 2nd of 2010?

18 A. There was communication that day.

19 Q. Do you recall how many contacts there were that day?

20 A. I believe it was around eight.

21 Q. Special Agent Kelly, did you conduct an overall analysis
22 of all the many telephones that this jury has heard about
23 during the course of this trial?

24 A. Yes, with the help of the analyst that we have in our
25 group. It's a lot of data.

1 Q. How many phones would you say you analyzed over the
2 course of this investigation?

3 A. Cellebrite data, as far as physical examinations of
4 phones that were recovered, was 57. Two of those, we couldn't
5 recover data from. The toll analysis encompassed over 200,000
6 records.

7 Q. And there was also an extensive amount of data received
8 from pen registers as well as cell site and realtime GPS
9 information on phones?

10 A. Correct.

11 Q. And is it safe to say that those records combined were
12 voluminous?

13 A. Yes, they were.

14 Q. I want to go through with you some of the ways that you
15 were able to connect up the phones that were recovered in this
16 case with the persons of interest in this case, specifically
17 with respect to the Defendants, and I want to show you what's
18 been previously marked as Government's 40f/1, and this is
19 Page 1 of that exhibit.

20 **MR. MONTEMARANO:** Objection, Your Honor. We've
21 already brought this to the Court's attention.

22 **THE COURT:** Come up. Bring the document.

23 (Whereupon, the following discussion occurred at the
24 bench.)

25 **MS. YASSER:** Your Honor, this is the summary exhibit

1 that we're seeking to admit as a summary chart as well as the
2 frequency chart, and I apologize. I thought that we resolved
3 the objection. It's actually not the page that I just put
4 up --

5 **THE COURT:** Don't cover the microphone.

6 **THE REPORTER:** Please don't cover the mics.

7 **MS. YASSER:** That relates to Defendant Fuertes.
8 It's actually Page 2. And Mr. Montemarano took issue with the
9 addition of two phones, one of which -- and I can show Your
10 Honor. It's 4 and 5 here. The first one is connected to
11 Mr. Fuertes through testimony through Carlos Ascencio, who
12 testified that it was saved in his phone as "Flaco," I
13 believe, and then Fuertes Number 5 was associated with him
14 through booking information that was obtained on January 3rd
15 of 2009 as well as March 25th of 2009, and I have the booking
16 sheets here for Your Honor if you require.

17 **THE COURT:** The objection?

18 **MR. MONTEMARANO:** Yes, Your Honor. With regard to
19 Fuertes Number 4, I observe that the initial provision of the
20 information to us a week and a half before trial contained no
21 reference to that. I'm presuming they had spoken to
22 Mr. Ascencio at some point before when he took the stand, and,
23 therefore, they knew this phone would have related to my
24 client, and, therefore, would have disclosed it to me, but
25 they did not do so as of the 27th. That's as to 4.

1 As to 5, in addition to that, the Government claims
2 to have been able to extract this from booking information.
3 These are the exhibits that Mr. Cunningham came running up
4 with and that were given to us, I believe, yesterday by the
5 Government. They are marked 44a and b. And, on each one, the
6 Government observes that there is a home phone listed, the one
7 in question, [REDACTED]-0076.

8 There has been no showing that this information was
9 extracted from my client. I say that because, as much as
10 anything else, we also can see that his eyes are listed as
11 being blue, as you can see next to my finger there, and I
12 think the Court can take as an article of faith sitting up
13 here that my client's eyes are not blue, and I think the
14 Government will stipulate to that.

15 But, furthermore, although I am aware that there is
16 case law suggesting that mere index information for purposes
17 of booking is not protected by *Miranda* and would not have been
18 part of what the Government -- the Court suppressed with
19 regard to my client's statements, there has to be a limit to
20 how much information the Government is permitted to extract
21 from a defendant or a suspect under that rubric. Simply put,
22 the Government could create a 50-page booking form with
23 information out to the nth degree and nth generation and
24 claim, "Oh, this is only booking information."

25 **THE COURT:** But that's not the case here, is it?

1 **MR. MONTEMARANO:** But I don't believe --

2 **THE COURT:** Let's argue the case here.

3 **MR. MONTEMARANO:** I'm saying -- well, it's *reductio*
4 *ad absurdum*, of course, Your Honor. My point is I don't
5 consider a phone to be part of the information you need to
6 identify a person, which is name, date of birth, physical
7 characteristics which are observed by the police officer,
8 perhaps an address, although that's pretty fungible and -- as
9 we've seen in this case with people living at different
10 addresses at different times, but a phone number now becomes
11 an investigative tool, and that's exactly what it's being used
12 as here, and, for that reason, we respectfully submit that
13 they should not be allowed to go into either of these on the
14 disclosure basis, and, certainly Number 5, based upon this as
15 being a source.

16 **MS. YASSER:** Your Honor, as I've already indicated,
17 this is a summary chart. It consists of information extracted
18 from phones by Special Agent Kelly as well as other
19 information received in the course of the investigation. The
20 basis has been submitted to the Court, and I think it's
21 supported by both the records, as well as the testimony that
22 you heard.

23 **THE COURT:** When did you provide Fuentes 4?

24 **MS. YASSER:** Fuentes 4 was provided in the last
25 summary chart that we sent. Was that on Sunday?

1 **MR. MONTEMARANO:** It might have been Sunday. Ah,
2 here. Sunday, 4/14, Your Honor. I dated it so the Court
3 could be clear. This is the original. I dated in highlighter
4 3/27, and this is the 4/14, which would have been Sunday.

5 **THE COURT:** Why did it come so late?

6 **MS. YASSER:** Again, it was discovered through
7 testimony of Carlos Ascencio. When preparing for his
8 testimony at trial, he was shown Cellebrite information, I
9 believe, from his -- extracted from his phone, and he
10 identified a specific phone number as being related to the
11 Defendant.

12 **THE COURT:** Sustained as to Fuertes 4.

13 Fuertes 5, the booking information, when was it
14 provided?

15 **MS. YASSER:** When was the booking information
16 provided to the Government?

17 **THE COURT:** To the Defense.

18 **MS. YASSER:** When did you --

19 **THE REPORTER:** I can't hear you.

20 **MS. YASSER:** I think, with respect to the
21 January 9th arrest, that was yesterday. The remainder of the
22 information, both that provided in December of 2008 as well as
23 March 2009, was previously provided in discovery.

24 **MR. MONTEMARANO:** No, no. It comes from December of
25 2008, Ms. Yasser. I think the Court's question was: When was

1 it provided to me?

2 **MS. YASSER:** It -- in discovery -- I mean, those two
3 times would have been provided in discovery with the booking
4 sheets --

5 **THE COURT:** Which would have been when?

6 **MS. YASSER:** I mean, in February.

7 **MR. MONTEMARANO:** No later than February. I think
8 that's probably a fair statement, Your Honor.

9 **THE COURT:** Okay.

10 **MR. MONTEMARANO:** If it was part of it, I have no --
11 I'm not, in any way, shape, or form, quarrelling with
12 Ms. Yasser's description. I'd only observe to the Court that,
13 if it was in there, I have no independent recollection of
14 seeing this form. It may or may not have been provided
15 related to those particular arrests in December of '08 and
16 January of '09.

17 **THE COURT:** Overruled as to Fuertes 5.

18 **MR. MONTEMARANO:** Thank you, Your Honor.

19 **MS. YASSER:** Your Honor, I'll need to redact. I
20 have a frequency chart that contains Fuertes Number 4, and I
21 also need to redact --

22 **THE COURT:** Can you work around it until after the
23 break? I'm going to break at 1:00.

24 **MS. YASSER:** I was hoping to be done with this
25 witness before that time. Maybe what I'll do is I'll hand it

1 to Mr. Cunningham and ask somebody to step outside and redact
2 the particular exhibit.

3 **THE COURT:** Okay.

4 **MS. YASSER:** Thank you, Your Honor.

5 (Whereupon, the bench conference was concluded.)

6 **MR. CUNNINGHAM:** Can we have one moment to consult,
7 Your Honor?

8 **THE COURT:** Yes.

9 (Pause.)

10 **BY MS. YASSER:**

11 Q. We're going to come back to the phone association chart
12 after an amendment is made, and, if I could ask you just to
13 turn your attention to specific instances of criminal conduct
14 as it relates to this investigation, Special Agent Kelly.

15 Did you analyze toll records in connection with
16 particular instances of conduct in this investigation --
17 particular occurrences?

18 A. Yes, we did.

19 Q. And why do you do that?

20 A. To show contact between individuals, assign the phone
21 numbers, to show -- if two people are doing things in
22 different locations, it shows they're communicating and
23 possibly someone is directing someone else or participating
24 with someone else.

25 Q. And, with respect to witness testimony, did you hear and

1 were you present for the testimony of Ms. Sandra Flores, the
2 woman who lived at [REDACTED] back on September 1st of
3 2009?

4 A. Yes, I was.

5 Q. And, after hearing that testimony and learning of what
6 she had to say, did you observe toll records as they relate to
7 a phone number ending in 0903?

8 A. Yes, we did.

9 Q. And that number, 0903, who in this investigation is that
10 number associated with?

11 A. We associate that number with Mr. Ventura.

12 Q. And how do you associate that number with Mr. Ventura?

13 A. I can -- the main thing was he was arrested with it on
14 September 24th, 2009, and it was previously registered to him
15 as a subscriber up to -- I think it was like September -- it
16 was around the time of the homicide of Pelon. It was also
17 saved on some phones we did examinations of as different
18 names -- Chalo, Chalo Maryland, Chino, Trabajo. "Trabajo"
19 means "work" in Spanish.

20 Q. And you said that the Defendant was actually arrested
21 with that phone on September 24th of 2009?

22 A. Yes.

23 Q. I want to show you what's been previously marked as
24 40d/4. Is this the toll analyses that you conducted on
25 Ventura's phone ending in 0903?

1 A. Yes.

2 Q. And it looks like this reflects two calls. Can you
3 please tell the ladies and gentlemen of the jury -- these two
4 calls are to a specific number. Can you see what that number
5 is?

6 A. Well, it shows, on September -- it's a little blurry.
7 I'm sorry.

8 Q. Let me take it out of the covering for you.

9 A. It's September 1st, 2009, 23:25 hours, [REDACTED]-6177
10 called 0903. The direction shows who is calling who, who
11 initiates contact.

12 Q. And so who is that number ending in 6177? Who is that
13 associated with?

14 A. We associate that with Ms. Flores.

15 Q. Is that based on her testimony?

16 A. Yes, and she provided it to us.

17 Q. And then what's the next contact between 0903 and 6177?

18 A. On September 2nd, 2009 at 00:38 hours, there is an
19 outgoing call from 0903 to [REDACTED]-6177. There is also
20 duration. The call -- the initial call was 13 minutes and 46
21 seconds, and then the subsequent phone call was 3 minutes and
22 34 seconds.

23 Q. Directing your attention to approximately three weeks
24 later in September of 2009, did you learn of an arrest at [REDACTED]
25 [REDACTED] on that date?

1 A. September 24th, ma'am?

2 Q. Yes.

3 A. Yes.

4 Q. And who was arrested there?

5 A. That was a male and two females: Mr. Ascencio and
6 Ms. Santiago, and I believe the other female's last name was
7 Melendez.

8 Q. And did Ms. Santiago provide her phone number to law
9 enforcement?

10 A. She did.

11 Q. Was it also recovered from the location at the time of
12 her arrest?

13 A. It was.

14 Q. Do you recall that phone number?

15 A. No, I do not. I can -- I have it. I can look for it. I
16 have it.

17 Q. I'm going to show you what's been previously marked as
18 40d/1. Before I do, let me ask you: Did you look at toll
19 records from Ventura's phone ending in 0903 as it relates to
20 the phone number associated with Margarita Santiago?

21 A. Yes, we did.

22 **MS. YASSER:** This is 40d/1 for the record, Your
23 Honor.

24 Q. Did your analysis reveal contacts between Ms. Santiago
25 and Mr. Ventura?

1 A. Yes. It appears, once again, the contact -- this would
2 have been run through our toll database that we maintained, so
3 it looks like this record encompassed September 5th, 2009
4 forward.

5 Q. And who made the first contact? Who was the caller?

6 A. Looks like Ms. Santiago called in to Mr. Ventura, or that
7 phone.

8 Q. And then are there contacts through and including
9 September 23rd of 2009?

10 A. Yes. This record ends September 23rd, 2009.

11 Q. Did you also look to see whether there was contact
12 between Ms. Santiago and Mr. Ventura following her arrest on
13 September 24th of 2009?

14 A. There was contact after that date.

15 Q. Do you recall Ms. Santiago's testimony that, prior to her
16 arrest on September 24th, 2009, she had an encounter with
17 police -- a prior encounter with police at [REDACTED]?

18 A. I do.

19 Q. And was her testimony the first time you had learned of
20 that prior contact?

21 A. Yes.

22 Q. After hearing her testimony, did you follow up to see if
23 you could corroborate whether, in fact, there had been prior
24 contact with Ms. Santiago at that address?

25 A. Yes, we did.

1 Q. What did you find?

2 A. There was contact at that address, and she was listed on
3 the report.

4 **MS. YASSER:** I'm going to show what's been
5 previously marked as Government's 12m, Your Honor.

6 Q. What is that?

7 A. That's an Annapolis Police Department Calls for Service
8 sheet.

9 Q. And what does that reflect?

10 A. It shows, on September 11th, 2009 -- it looks like
11 Detective Carraballo responded to [REDACTED] and it
12 looks like -- it's a little blurry. It looks like it's 15:39
13 hours, and they cleared at 16:29 hours.

14 Q. I think you heard Ms. Santiago testify that the police
15 officer who came that day threatened to take her children away
16 from her. Do you recall that testimony?

17 A. Something to that effect, ma'am.

18 Q. In your years investigating sex-trafficking cases,
19 particularly in the context of illegal immigrants, is that
20 something that --

21 **MR. MONTEMARANO:** Objection.

22 **THE COURT:** Basis?

23 **MR. RUTER:** Your Honor, could we approach on that
24 question, please?

25 **THE COURT:** Sure.

1 (Whereupon, the following discussion occurred at the
2 bench.)

3 **THE COURT:** A walk always provides a chance to
4 organize one's thoughts, doesn't it?

5 **MR. MONTEMARANO:** Well, Your Honor, I was slow at
6 least once yesterday, which is an awfully embarrassing thing
7 for someone whose business is supposed to be being quick on
8 the draw. I believe the answer calls for an opinion or
9 conclusion by the witness drawing on past experience, and
10 therefore is of marginal relevance to what we are talking
11 about here today.

12 **THE COURT:** Okay. Overruled.

13 **MR. RUTER:** Your Honor, I have a different problem.

14 **THE COURT:** You made good use of the walk to the
15 bench also.

16 (Laughter.)

17 **MR. RUTER:** I did. I thank you, sir.

18 I understand this is a summary witness, but I find
19 it objectionable that Government counsel repeats what she
20 believes the testimony was of this witness, and then this
21 witness, and then this witness, and then she's then directing
22 the witness to answer the question. I understand there has to
23 be a direction, Judge Quarles. You just can't say, "Do you
24 remember?" But I do find it objectionable that the entire
25 body of a prior witness' testimony is regurgitated by the

1 question before there is an actual question on what some other
2 witness said.

3 **MS. YASSER:** Your Honor, I'm simply trying to put
4 some context around analysis that was conducted and why it was
5 done. Otherwise --

6 **THE COURT:** Of course, that's one of the purposes of
7 closing argument, Ms. Yasser. Take it back a notch or two,
8 would you, in terms of summarizing?

9 **MS. YASSER:** Sure.

10 **THE COURT:** Thank you.

11 **MR. RUTER:** Your Honor, the last thing, and then I
12 promise I'll leave.

13 **THE COURT:** No, no. No, no. You have full rights
14 to be here as long as the trial is going on.

15 **MR. RUTER:** Thank you. I heard that counsel twice
16 indicated that, "As a result of hearing the testimony of...
17 did you," and this could be fodder for cross-examination, but
18 I was wondering whether or not counsel meant to say, "After
19 speaking with," or, "After having the Grand Jury testimony
20 of... months and months and months ago, did they do an
21 analysis," but I think the questions have been, as a result of
22 hearing their testimony, did you then do certain things, and I
23 wanted to know if that was accurate.

24 **MS. YASSER:** Well, one --

25 **THE COURT:** Well, one of the things that -- I'm

1 sorry.

2 **MS. YASSER:** -- of the things was new. I'm sorry,
3 Your Honor. That what Margarita Santiago revealed, and I
4 think I established in questioning that was something he
5 hadn't heard before. The remainder of the questioning, if I
6 did suggest that it was only after hearing testimony on the
7 stand, then I misspoke.

8 **MR. RUTER:** Okay. I mean, if it was, Your Honor, of
9 course we'd object, because, if they just discovered it, we
10 haven't had a chance to --

11 **THE COURT:** I was going to point out to Ms. Yasser
12 that that was one of the reasons why an objection was
13 sustained the last time you were here --

14 **MR. RUTER:** Yes, sir.

15 **THE COURT:** -- basically because of the lateness of
16 the disclosure, and I'm sure she doesn't want to take unfair
17 advantage of anyone.

18 **MS. YASSER:** No, sir.

19 **MR. RUTER:** Thank you, Your Honor.

20 **MS. YASSER:** Thank you, Your Honor.

21 (Whereupon, the bench conference was concluded.)

22 **BY MS. YASSER:**

23 Q. Special Agent Kelly, do you recall the question that I
24 had asked before the break?

25 Let me restate it. In your experience investigating

1 sex-trafficking cases, particularly as they relate to illegal
2 immigration, have you ever encountered a situation where a law
3 enforcement officer has threatened a prostitute to take away
4 her children?

5 A. I wouldn't say "threatened." I would say you're advising
6 them that their criminal activity is going to cause the loss
7 of the child like that, especially if you have people that are
8 investigating other things other than sex trafficking,
9 because, when we go in to do sex trafficking, we're asking
10 questions to see if there is indications of trafficking.

11 If there is a drug agent there or a drug officer,
12 their intent is to, you know, conduct their investigation,
13 and, at that point, they'll advise the ramifications to
14 someone who is found in a situation like that, and that could
15 be the loss of the child.

16 Q. And do you have any basis of knowledge for why
17 Detective Carraballo was at [REDACTED] on that day?

18 A. I believe it was a drug investigation.

19 Q. Special Agent Kelly, were you also involved in the
20 investigation of the November 3rd, 2010 assault on an
21 individual named Hector Avila?

22 A. Yes. I responded.

23 Q. And, in addition to the phone recordings which the jury
24 has already heard, did you also conduct a toll analysis with
25 respect to that particular assault?

1 A. Yes, we did.

2 Q. And can you tell them what you did and what you were
3 looking for.

4 A. We had the victim's phone number. We had identified the
5 phone number that was used to lure the victim into the area.
6 That phone number was also --

7 **MR. RUTER:** Objection to the characterization, Your
8 Honor.

9 **THE COURT:** Overruled.

10 **THE WITNESS:** That -- so that phone number was used
11 to lure the victim, and that phone number was identified on
12 our investigation as the house number for [REDACTED], so
13 we had tolls and contacts with it. So we looked at the time
14 frame before the assault, during the assault, robbery, and
15 then afterwards to see how -- what type of contact that number
16 had with other numbers that were part of the investigation.

17 **BY MS. YASSER:**

18 Q. I want to show you what's been previously marked as
19 Government's 40d/2. What is that?

20 A. That's November 3rd, 2010, starting at 9:58 in the
21 morning, the contact between [REDACTED]-3124 and [REDACTED]-5306,
22 and -- well, pardon me. And then it also associates the
23 dialed number as [REDACTED]-5211.

24 Q. And, with respect to the 3124 number, who was that number
25 associated with?

1 A. Mr. Ventura.

2 Q. And how so?

3 A. He was arrested with it on November 15th. We had
4 numerous consensual phone calls with it. We were getting
5 precision locate on it.

6 Q. And, with respect to the 5211 number, who or where was
7 that number associated with?

8 A. That was a number recovered from the trash at the
9 McDonald's, and then subsequent consensual phone calls were
10 made to it, and then that was a number identified by Mr. Avila
11 as the number used to bring him into the area.

12 Q. And so do these initial contacts in the day show outgoing
13 and incoming calls between the 5211 number and the 3124 number
14 associated with Ventura?

15 A. It does, as well as the duration of the phone call.

16 Q. And then did you also see on here -- look for contacts
17 with the victim, Hector Avila's phone?

18 A. That's not on this toll analysis. It is on another toll
19 analysis.

20 Q. Well, let me ask you: What's the -- I see a 5306 number
21 on this analysis. Whose number is that?

22 A. I'm -- I apologize. I was looking at the right column
23 for the number dialed. Yeah. In the left, about halfway
24 down, at approximately 21:14 hours, it starts receiving phone
25 calls from 5211, and then incoming and outgoing back and

1 forth.

2 Q. And so who was the recipient of the first contact at
3 21:14 on November 3rd, 2010?

4 A. 5211 called 5306.

5 Q. And what was the duration of that call?

6 A. Forty-two seconds.

7 Q. Do you recall approximately what time Hector Avila was
8 assaulted on November 3rd, 2010?

9 A. No. I know it was in the evening hours. I'm not sure of
10 the exact time. I responded later that evening, and I
11 understand it to be around that time.

12 Q. Okay. Now, with respect to, in general, the contacts
13 between Hector Avila's phone and the phone number ending in
14 09 -- 3124, associated with Ventura, did you look back to see
15 when it was that these two phones had contact at all?

16 A. That year, or that day?

17 Q. That year, ever.

18 A. Yes. We ran a toll analysis for 5306, and I'm sorry.
19 I'm just getting to the numbers, trying to keep it straight.
20 To the best of my recollection, unless you put a toll analysis
21 up, it would have been, I think, July of that year is when
22 they -- the initial contact with those two phone numbers.

23 **MR. RUTER:** What year was that again? I'm sorry.

24 **THE WITNESS:** 2010.

25 **MR. RUTER:** Thank you.

1 **BY MS. YASSER:**

2 Q. Now, as I mentioned, did you participate in the recording
3 of phone calls between Hector Avila and Defendant Ventura
4 following the November 3rd, 2010 assault?

5 A. I did.

6 Q. And, prior to that, were you also involved in the
7 recording of a threatening call to another individual of
8 interest in the investigation?

9 A. Another person that was receiving threats?

10 Q. Yes.

11 A. Yes. We placed numerous --

12 Q. Who was that?

13 A. Freddy Soriano.

14 Q. And do you recall on what date you recorded a threatening
15 phone call from Ventura to Freddy Soriano?

16 **MS. YASSER:** And this is going to be Tab 5, if I can
17 refer the ladies and gentlemen of the jury back to their
18 binder of consensual calls, and if I could pass up for Special
19 Agent Kelly the same binder. Do you have one? Tab 5. I
20 don't know if yours has tabs.

21 **THE WITNESS:** Oh, no. August 4th, 2010.

22 **MS. YASSER:** And, if I could ask Mr. Cunningham to
23 please play that phone call for the ladies and gentlemen of
24 the jury, and it's Government Exhibit 40b/3A, and this is
25 Tab 5.

1 (Whereupon, an audio recording was played.)

2 **BY MS. YASSER:**

3 Q. Special Agent Kelly, did you review along with the jury
4 that transcript in English?

5 A. I did.

6 Q. There is a reference on Page 2 to the sending of a small
7 picture, "... the one landing on your chest."

8 Now, did you or any of the other investigators
9 involved with this case receive anything from Freddy Soriano
10 on that date or around that time?

11 A. As I recall, August 3rd, Detective Hartlove received the
12 text messages from Soriano.

13 Q. I want to show you -- and have you reviewed that text
14 message?

15 A. Yeah. It was presented as an exhibit.

16 Q. I want to show you Government's 15c/7. Do you recognize
17 that?

18 A. Yes. I've seen it several times.

19 Q. And what is that?

20 A. That's what I take to be the Santa Muerte statue with a
21 pistol between -- a semi-automatic pistol between its wings,
22 and what appears to be a magazine that would fit inside of the
23 semi-automatic pistol on top of whatever the book is that that
24 religion would have.

25 Q. And what is this? What is this physically?

1 A. That is the image that was forwarded that -- from
2 Mr. Soriano.

3 Q. Now, I want to direct your attention back to our earlier
4 conversation about phone records and analysis that you
5 conducted. You mentioned that you had analyzed, I think,
6 nearly 60 phones in this particular case; is that correct?

7 A. Fifty-seven.

8 Q. And did you compose, with the help of an analyst, a
9 summary chart from the voluminous records that you reviewed in
10 connection with this case?

11 A. Yes, we did.

12 Q. And did those records include -- in addition to the
13 physical phones, did they include subscriber records?

14 A. At some times.

15 Q. And did it also include information that you obtained in
16 general over the course of the investigation?

17 A. Yes. Things that we'd receive from sources of
18 information, from cooperating witnesses, from victims.

19 Q. And, after you associated certain phones with certain
20 people, did you make connection between the phones through
21 toll record analysis?

22 A. Yes, that's one way we did.

23 Q. And why do you do a toll record analysis to see the
24 connections between, for example, phones associated with one
25 defendant to another defendant?

1 A. Frequency of communication.

2 Q. What does that tell you, Special Agent Kelly?

3 A. The more often someone talks, the longer they talk, the
4 more involved they may be in the criminal conspiracy.

5 Q. I want to show you what's been previously marked as the
6 first page of Government's 40f/1. You've already discussed
7 through your testimony some of the associations you made with
8 these phones, in particular with respect to the first entry,
9 0903, and the second entry, 3124, but I'd like to cover the
10 third and fourth entries on this page, starting with 7742.

11 Who did you associate that number with, Special
12 Agent Kelly?

13 A. Mr. Ventura.

14 Q. And how did you associate that number with Mr. Ventura?

15 A. He was arrested with it on September 24th, '09, as well
16 as the Ventura Number 1 number. The phone we recovered from
17 [REDACTED] had that phone number saved as "Oscar
18 Annapolis" in its contacts. On Ms. Fuertes' (sic) phone, it
19 was saved as "Mi Niño." There was an incoming text on one of
20 the phones addressing the -- that number as -- there was --
21 pardon me. There is a text message on that phone where the
22 person sending that text message addressed the person who had
23 that phone as "Chale," and it was saved as "Oskar Annapo"
24 on -- it says "Helen" here, but that's Ms. Melendez. She's
25 the other female that was arrested on September 24th, 2009 at

1 [REDACTED] with Ms. Santiago and Mr. Ascencio.

2 Q. And, for this particular phone, were you able to obtain
3 toll records for a certain period of time?

4 A. We did not obtain toll records. We have Cellebrite call
5 logs only. Using the Cellebrite, we -- depending on the make
6 and model of the phone, we can pull the call that's incoming
7 and outgoing and missed and generate a small project of what
8 phone history is on that phone.

9 Q. With respect to many of the phones in this investigation,
10 did you or other officers obtain toll records?

11 A. Yes.

12 Q. And were those for the entire length of the investigation
13 from 2008 to 2010, or are they short periods throughout the
14 investigation?

15 A. It's on a phone-by-phone basis. Not all -- not all the
16 phones were available the length of the investigation.

17 Q. Now, with respect to the final entry here, we see a 9263
18 number. You've attributed that to Ventura as well. Can you
19 explain to the ladies and gentlemen of the jury how.

20 A. The 911 call that I believe is an exhibit on March 13th,
21 2010 was the 911 call, a reporting on Freddy Soriano, alleged
22 that a woman -- I won't get into it, but it caused police
23 action or sought to cause police action against
24 Freddy Soriano, and then also a receipt for the phone was
25 recovered at [REDACTED] at Mr. Ventura's residence on

1 November 15th, 2010.

2 Q. And, since we've been through Ventura Number 1 and
3 Number 2 and the jury has heard extensive testimony on the
4 connections between those phones, I'm going to turn your
5 attention now instead to Page 2 of Government's 40f/1.

6 MS. YASSER: If I could have a moment, Your Honor.

7 THE COURT: Yes.

8 BY MS. YASSER:

9 Q. I want to direct your attention to the first three
10 entries. What do the first three entries on this chart
11 reveal?

12 A. They're associated with -- we're calling them Fuertes 1,
13 2, and 3 for Defendant Mr. Fuertes. Phone Number for
14 Fuertes 1 is [REDACTED]-5015.

15 Q. And how primarily and why do you associate that number
16 with Defendant Fuertes?

17 A. He was arrested with it. He gave and had the number on
18 the September 25th, 2008 incident and the December 10th, 2008
19 incident with Mr. -- with Detective Hartlove.

20 Q. And was that phone number also saved on any of the phones
21 that you recovered and analyzed over the course of the
22 investigation?

23 A. Yeah. The phone that was recovered at [REDACTED] had
24 that number saved as "Flaco."

25 Q. And do you recall when that phone was recovered at

1 [REDACTED]?

2 A. It would have been September 26th, 2008.

3 Q. Now, with respect to the next number on this chart,
4 Fuertes Number 2, can you tell the ladies and gentlemen why
5 you associated that number with Mr. Fuertes?

6 A. That was the phone in his possession when he was arrested
7 on March 25th, 2009.

8 Q. By the way, speaking of Mr. Fuertes' arrest on March 25th
9 of 2009, do you know if Mr. Fuertes was -- or that there were
10 any Immigration consequences following that arrest?

11 **MR. MONTEMARANO:** Objection.

12 **THE COURT:** Basis?

13 **MR. MONTEMARANO:** Relevance.

14 **MS. YASSER:** It has to do with timing and location
15 of this particular defendant.

16 **THE COURT:** Thank you. Overruled.

17 **THE WITNESS:** Yeah. An ICE detainer was lodged
18 against him, and he -- which resulted in him coming into
19 Immigration custody.

20 **BY MS. YASSER:**

21 Q. And was he detained in Immigration custody for any
22 lengthy period of time?

23 A. He was detained, but he was placed in proceedings and
24 eventually was released because he failed to appear for his
25 Immigration proceedings and became an ICE fugitive.

1 **MR. MONTEMARANO:** Objection.

2 **MS. YASSER:** Again, for timing and location, Your
3 Honor.

4 **MR. MONTEMARANO:** May we approach?

5 **THE COURT:** Come up.

6 (Whereupon, the following discussion occurred at the
7 bench.)

8 **MR. MONTEMARANO:** Timing and location, well, let's
9 cleverly get into the fact that my client failed to appear and
10 blacken his name before the jury, as if the evidence wasn't
11 doing a good enough job. Most respectfully, it didn't have to
12 go there, and I request that the jury be instructed to
13 disregard the response.

14 **MS. YASSER:** If I can, Your Honor, the Government's
15 theory is that, after Mr. Fuertes was placed in deportation
16 proceedings and failed to appear, that's when approximately he
17 went to Virginia, and that's the reason that he went to
18 Virginia is the Government's theory of the case.

19 **MR. MONTEMARANO:** It's a lovely theory which the
20 Government is certainly entitled to argue on closing. In as
21 much as there is no evidence -- there is not a single sighting
22 of him there, there is not a single instance where they can
23 link him to -- with these phones that are allegedly his a year
24 after they last were in his possession, or ascribed to him,
25 the only evidence we have he was even in Virginia was the

1 testimony of Ms. Franco yesterday.

2 **MS. YASSER:** Carlos Ascencio also testified that
3 he'd seen Pacha, who is Fuertes, in Virginia.

4 **THE COURT:** Overruled.

5 (Whereupon, the bench conference was concluded.)

6 **BY MS. YASSER:**

7 Q. Special Agent Kelly, my last question had to do with
8 Immigration consequences for Mr. Fuertes in the earlier part
9 of 2009. Now, when Mr. Fuertes was released from ICE custody,
10 was there some sort of tracking device on him?

11 A. Yeah. As I recall, he had a brace -- we have an
12 alternatives to detention policy where, if possible, there is
13 no violent crimes in their history, people that are subject to
14 removal proceedings, we place on a bracelet with intensive
15 monitoring. Because he came from a facility, that might have
16 been one of the reasons to place that on him as opposed to
17 just a straight removal, a release on recognizance, because he
18 came through the criminal alien program. So, as I recall -- I
19 reviewed the records a long time ago -- he was on a bracelet.

20 Q. And you mentioned that he didn't appear for court
21 following this March 25th, 2009 arrest?

22 A. Correct. I believe that was April or May of 2009.

23 Q. Now, with respect to Fuertes Number 3, can you tell the
24 ladies and gentlemen of the jury how you associate that phone
25 with Mr. Fuertes.

1 A. Well, we had toll data on it, August and September of
2 2010. I believe the reason we obtained that toll data was
3 because we saw a frequency with other target numbers in the
4 investigation. Subsequently, he was identified by Ms. Fuertes
5 as the number --

6 Q. Ms. Fuertes?

7 A. Pardon me. Ms. Dueñas for the -- for Mr. Fuertes when he
8 was working in Virginia for Mr. Ventura, and then we also
9 reviewed the phones. It was saved the same as Mr. Ascencio's.
10 It was saved as "Juano" on Mr. Ascencio's phone with the
11 similar testimony, and it was saved as "Flaco" on the phone
12 that was recovered from [REDACTED] September 1st, 2009.
13 In Mr. Ventura's Phones 1, 2, and 3, it was saved as "Pacha,"
14 "Norfo," and "Pinto." It was saved as "Flaco" on a phone
15 recovered at [REDACTED] on November 15th, 2010. It was
16 saved as "Chin" on the phone [REDACTED], which that
17 phone was recovered November 15th, 2010, and Mr. Reyes was
18 arrested with that phone on June 28, 2010.

19 It was saved on -- so the phone number for that is
20 [REDACTED]-9346, and, between Mr. Reyes' arrest and what -- in
21 June 28th of 2010 and when that phone was recovered on
22 November 15th, 2010, that number had been erased.

23 Q. I want to show you finally what's been indicated as a
24 number for Fuertes, Fuertes Number 5, and can you just tell
25 the ladies and gentlemen of the jury how you associated that

1 number with Mr. Fuertes.

2 A. [REDACTED]-0076, Mr. Fuertes provided that himself on
3 January 3rd, 2009 and March 25th, 2009 on the booking sheets.

4 Q. Now, there were a lot of phones seized over the course of
5 this investigation. Were some of those phones associated with
6 brothel locations --

7 A. Yes.

8 Q. -- that you identified?

9 I want to walk through now with you how you formed
10 those connections between particular locations and brothels
11 and phone numbers.

12 MS. YASSER: And this is -- for the record, this is
13 Government's 40f/1, still Page 3.

14 Q. Mr. Kelly, or Special Agent Kelly, directing you to the
15 first number, 8938, with what or where did you associate that
16 number?

17 A. We associate that number with the brothel at [REDACTED]
18 [REDACTED].

19 Q. And how so?

20 A. There were business cards recovered in the Toyota Corolla
21 that was searched on November 15th, 2010, and they were on
22 Mr. Fuertes' person December 10th, 2008. The phone was
23 recovered September 26th, 2008 at [REDACTED], and, at that
24 time, law enforcement answered the phone of people who were
25 calling in and asking for girls on the phone.

1 Q. Let's go to the next line, the number you associated with
2 [REDACTED]. Can you tell us how you associate that number
3 with that location?

4 A. [REDACTED]-1397, the subscriber for that is Amparo de Jesus
5 Gonzalez, [REDACTED], Annapolis, Maryland. It was also
6 a part of the subscriber records that another address was
7 associated with that number, a [REDACTED], Capitol
8 Heights, Maryland.

9 Q. What do you know that address to be? Whose residence?

10 A. Mr. Ventura.

11 Q. And then finally?

12 A. Then there were also business cards recovered from the
13 Nissan Altima operated by Mr. Fuertes.

14 Q. The next location is [REDACTED]. Did you associate
15 a phone number with that location?

16 A. [REDACTED]-1643.

17 Q. And how did you associate that?

18 A. Business cards for [REDACTED] were recovered from [REDACTED]
19 [REDACTED] on September 1st, 2009.

20 Q. And did that actually contain the address [REDACTED]?

21 A. I believe so.

22 Q. The next line is [REDACTED]. Can you tell me
23 how you associated the number with that location?

24 A. That would be [REDACTED]-4630. Business cards were
25 recovered pursuant to a search warrant at [REDACTED] on

1 July 7th, 2010. We also had done consensual calls to that
2 number, and the phone itself was recovered at [REDACTED]
3 on July 7th, 2010.

4 Q. And is that the same location that the jury heard the
5 consensuals regarding the juvenile?

6 A. Correct.

7 Q. Is that in Easton?

8 A. Yes.

9 Q. The next line is [REDACTED], and there is four
10 numbers that you associated with [REDACTED]. Can you walk the
11 ladies and gentlemen of the jury through your associations.

12 A. First one is [REDACTED]-9346. The phone was recovered
13 November 15th, 2010 at [REDACTED]. We had consensual
14 phone calls, and Mr. Reyes was arrested with the phone on
15 June 28th, 2010. There is other contact with that number
16 associated with the investigation that's not in this chart.

17 Q. What's the next number that you associate with [REDACTED]
18 [REDACTED]?

19 A. [REDACTED]-2387, and that was recovered from Mr. Ventura's
20 van on November 15th, 2010, and we had a consensual call to
21 that number.

22 Q. [REDACTED] Number 3?

23 A. [REDACTED]-5211. There were consensual calls to that
24 number. The bill from the Wireless shop dated 10/18/10, that
25 says tossed by Reyes. That was the receipt recovered from the

1 trash.

2 Q. And then what about the fourth number associated with [REDACTED]
3 [REDACTED]?

4 A. [REDACTED]-8346. Two boxes of business cards were recovered
5 from the Nissan Sentra on November 22nd, 2010 pursuant to the
6 search warrant. Two receipts for phone recovered at
7 Mr. Ventura's residence, which is [REDACTED] on
8 November 15th, 2010, and a receipt for the phone and phone
9 recovered November 15th, 2010 in the Astrovan operated by
10 Mr. Ventura.

11 Q. The next line is the address of [REDACTED]. Where
12 is that located?

13 A. That's in Portsmouth, Virginia.

14 Q. And what's the number you associated with that location?

15 A. [REDACTED]-1815.

16 Q. Why did you make that association?

17 A. We received the phone through the investigation that
18 Agent Joseph was conducting in Norfolk. We received that
19 phone number. We eventually placed a consensual phone call,
20 and that number was located through -- in other ways in the
21 investigation.

22 Q. And how was --

23 A. And as well as what's on the chart. In the consensual
24 call in Norfolk, it was saved as "Chin" and "Chi Kitiguao" --
25 I don't know if I pronounced that correctly -- on the phones

1 recovered at [REDACTED] on July 7th, 2010, and was also
2 saved as "Chim" -- it's "Chin" in Block 2, and "Chim" on
3 Line 3 -- on the phone recovered November 15th, 2010 in the
4 Astrovan operated by Mr. Ventura.

5 Q. Now, we've seen that name Chin before. Where did we see
6 that?

7 A. That's a 4168, Fuertes 3.

8 Q. Now, continuing on with the two phone numbers associated
9 with [REDACTED], can you explain why you made those
10 associations?

11 A. The business cards, stamps, phones. So the business
12 cards, the stamp to make the business card, and the phone for
13 both those numbers were recovered from [REDACTED] or on the
14 people that had stolen it from [REDACTED] on 2/17/10. So part
15 of that whole incident on February 17th, 2010, those two
16 phones were recovered at the address. They were on the
17 business cards for the address, and they were that stamp to
18 make the business cards.

19 Q. Now, after making these associations with the locations,
20 did you check for frequency of contact between the Defendants
21 and these particular locations?

22 A. Yes, we did.

23 Q. And did you also check for frequency of contact between
24 the two defendants themselves, the various phones that were
25 associated with them?

1 A. Yes, we did.

2 Q. I want to review that with you now?

3 **MS. YASSER:** If I could approach, Your Honor?

4 **THE COURT:** Yes.

5 **MS. YASSER:** Special Agent Kelly, I'm going to ask
6 you to step down and bring your documents that you need with
7 you.

8 **THE REPORTER:** Just make sure you keep your voice
9 loud and clear.

10 **THE WITNESS:** Okay.

11 **BY MS. YASSER:**

12 Q. I'm going to start, without blocking the Judge, with
13 respect -- sure. With respect to first the frequency of
14 contact between the phone numbers associated with Mr. Ventura
15 and the phone numbers associated with Mr. Fuertes, can you
16 describe how many contacts you saw over the period of time in
17 your investigation?

18 A. We modified it. There has been a change that I see. So
19 the total amount of calls between Mr. Ventura in the left
20 column and Mr. Fuertes along the top would represent 3,236
21 contacts between August 1st, 2008 and September 17th, 2010.

22 Q. And, just to be clear, Special Agent Kelly, did you have
23 toll records for that entire length of time? In other words,
24 was that consistent from the start of that period to the end,
25 or were there brief periods throughout for which you had toll

1 records?

2 A. There is periods listed for the individual phones that
3 demonstrate what periods we actually had the tolls for, so,
4 no, we didn't have tolls for all the numbers for the whole
5 time frame. This is the sum of several smaller blocks of
6 time.

7 Q. Okay. So taking as an example that first entry between
8 Ventura Number 1 and Fuertes Number 1 in the upper left-hand
9 column of Government's Exhibit --

10 **MS. YASSER:** For the record, this is Government's
11 Exhibit 31c.

12 Q. How many contacts were made during that period of time?

13 A. Between Ventura 1 and Fuertes 1, there were 919 contacts
14 between August 1st, 2008 and December 10th, 2008.

15 Q. And does the rest of the chart reflect contacts for just
16 brief periods or month periods at a time?

17 A. It reflects the period that we had the data.

18 Q. Now, with respect to Ventura's phones and Fuertes'
19 phones, did you also analyze those phones for contacts with
20 the brothel locations that you identified?

21 A. Yes, we did.

22 Q. And, starting first with Ventura Number -- well,
23 actually, in sum total, how many contacts were there between
24 Ventura's phones and Fuertes' phones with the brothel
25 locations?

1 A. 8,576 between August 2nd, 2008 and November 15th, 2010.

2 Q. And did Defendant Ventura have contacts with all the
3 brothels --

4 MR. MONTEMARANO: Objection, Your Honor. Can we
5 please approach?

6 THE COURT: Come up.

7 (Whereupon, the following discussion occurred at the
8 bench.)

9 THE COURT: Yes, sir?

10 MR. MONTEMARANO: I had hoped not to need to bring
11 this up, but, while I am unhappy about, I am resigned to the
12 fact that the Government can have the witness testify about
13 these phones being associated with one or both of the
14 Defendants. The testimony is coming out as calls between
15 Ventura and Fuertes, which is --

16 THE COURT: Sustained. Sustained.

17 MR. MONTEMARANO: -- entirely inappropriate.

18 THE COURT: Sustained.

19 Also, while you're here, Mr. Ruter, please ask
20 Mr. Ventura not to have contact with any of the witnesses
21 while they're on the stand, including calling Special
22 Agent Kelly a liar.

23 MR. RUTER: Yes, sir.

24 THE COURT: Thank you.

25 (Whereupon, the bench conference was concluded.)

1 **MS. YASSER:** Actually, Special Agent Kelly, you can
2 go ahead and take a seat. I think we've covered that.

3 **BY MS. YASSER:**

4 Q. Now, you mentioned you conducted an analysis of -- I'm
5 going to get it wrong, but I think 57 phones?

6 A. Correct.

7 Q. Okay. Now, did you look through those phones to see how
8 many of the phones had contacts saved in or phone contacts
9 with the numbers that you associated with Mr. Ventura or
10 Mr. Fuertes?

11 A. Out of the 57 phones, two we couldn't recover data from,
12 so the analysis was actually 55 -- the data recovered from 55,
13 and the total analysis that I did for the whole project also
14 involved the brothel numbers, or numbers that we associated
15 through the investigation.

16 Q. And how many of the phones had connections with any of
17 those numbers?

18 A. It would have been 49 of the 55 phones that we were able
19 to obtain data from had relevant contact with numbers that I
20 identified in the investigation.

21 Q. Special Agent Kelly, as part of your investigation, did
22 you research Ms. Dueñas' employment history?

23 A. Yes.

24 Q. And, in doing so, did you go to the facility where
25 Ms. Dueñas had testified that she was employed?

1 A. We did.

2 Q. Do you recall approximately when that was that you went
3 there?

4 A. Within the last three to four months.

5 Q. And did you observe anything noteworthy when you went to
6 that location?

7 A. Yes. There was a picture on the wall.

8 Q. And, by the way, where was that, that you went?

9 A. Waste Management down in Laurel, Maryland, in Prince -- I
10 believe it's the Prince George's County side of it. Laurel is
11 a couple of counties coming together.

12 Q. I want to show you Government's 39d and ask if you
13 recognize that photograph?

14 A. Yes.

15 Q. Where was that observed?

16 A. In the Office of Human Resources where we went to serve a
17 subpoena.

18 Q. And do you recognize anyone in that exhibit?

19 A. Ms. Dueñas in the bottom right.

20 Q. As part of the investigation, was Ms. Dueñas encountered
21 at a [REDACTED] location on November 15th, 2010?

22 A. She was.

23 Q. And were you present on that day?

24 A. No.

25 Q. Have you reviewed photographs taken from that location on

1 that day?

2 A. I have.

3 Q. And do you have knowledge of what type of residence it
4 was that Ms. Dueñas was residing in?

5 A. She had a room in the basement of a single-family
6 residence.

7 Q. I want to show you Government's 26a/1. Do you recognize
8 that?

9 A. That would be the exterior door to the basement.

10 Q. 26a/2?

11 A. There is a glare -- I'm sorry -- but I can see it now.
12 That's the bedroom. That's the bed.

13 Q. A little better?

14 A. Yeah.

15 Q. 26a/4?

16 A. Appears to be lotions and some currency, some vitamins,
17 DVD player.

18 Q. Do you know approximately how much cash was recovered
19 from the entirety of [REDACTED]?

20 A. No. I believe it was less than a hundred dollars.

21 Q. Was there any other evidence obtained from [REDACTED]
22 with respect to cash deposits or receipts or anything
23 evidencing money of any kind?

24 A. No.

25 Q. Do you know if there was any food recovered from the room

1 where Ms. Dueñas was staying?

2 A. Not that was made note of.

3 Q. I want to show you 26j, ask you to identify that.

4 A. That is a hospital -- I'd call it a bill from Washington
5 Adventist Hospital for a patient Esmirna Franco.

6 Q. From what date? Or I guess let me actually direct you to
7 Page 2 and ask if you can tell from looking at this what this
8 record reflects the date of service to be.

9 A. August 30th, 2010.

10 Q. And what's the description of the service provided?

11 A. I'm not a doctor, but it looks like a pregnancy less than
12 14 weeks.

13 Q. And then what's the entry below that reflect?

14 A. "Pregnant uterus."

15 Q. I'm sorry. You may have mentioned it, but the name of
16 the person on that bill?

17 A. Esmirna Franco.

18 Q. Was there a phone recovered from Ms. Dueñas on that day?

19 A. There were two phones recovered at that address.

20 Q. And did you look for contact information for Mr. Fuertes
21 or a Mr. Ventura?

22 A. I know I -- we researched tolls for Mr. Ventura, contact
23 with his number -- all numbers associated with him.

24 Q. And do you recall seeing contact between Mr. Ventura's
25 phone and Ms. Dueñas' phone?

1 A. Yes. There was substantial contact between the two.

2 Q. And, on that same date, was the number ending in 3124 --
3 was that the number recovered from Mr. Ventura's possession?

4 A. Yes. It was in the van that he was arrested.

5 Q. And did you analyze that phone?

6 A. We did.

7 Q. Were there any text messages of note contained within
8 that phone --

9 A. There were.

10 Q. -- as it relates to Witness Dueñas?

11 A. There were.

12 Q. And how, if you know, did Mr. Ventura have Ms. Dueñas'
13 phone saved in his phone?

14 A. "Diabla."

15 Q. Do you know what that means?

16 A. Female devil.

17 Q. I want to show you what's been marked as Government's
18 29b/1A, and this is a -- there is two pages of this exhibit.
19 First, I'm going to show you the front side. Is that a text
20 message that -- what is that?

21 A. There is a bad glare on the name. I know what the name
22 there --

23 **MS. YASSER:** I apologize, but I think I misquoted.
24 It's 39b/1A for the record, Your Honor.

25 **THE COURT:** Yes.

1 **BY MS. YASSER:**

2 Q. What is this a picture of?

3 A. That's a picture of the Number 11 text.

4 Q. And whose phone is this a picture of?

5 A. That is the 3124 phone number associated with
6 Mr. Ventura.

7 Q. And is this an incoming, or an outgoing text from the
8 "Diabla" number?

9 A. From the text, it's from Diabla to [REDACTED]-3124.

10 Q. I'm going to show you -- is there two parts to this
11 particular text exchange?

12 A. Yes. The text rolls onto another screen.

13 **MS. YASSER:** And this is going to be 39b/1B, Your
14 Honor.

15 Q. Is that the remainder of that particular text message?

16 A. Yes.

17 Q. And did you obtain a Court-certified translation of that
18 text message?

19 A. Yes.

20 Q. I want to show you the backs of 39b/1A and b/1B and ask
21 you to read that for the ladies and gentlemen of the jury,
22 starting with the left side.

23 A. So, from Diabla, she devil, "Pardon me if I bother you,
24 but it was only to tell you that Marian does not work on
25 Sunday. I won't bother you anymore, but it was only to tell

1 you --" "but it was only to tell you that Marian does not work
2 on --" I'm sorry. "I won't bother you anymore," and that's
3 it. It's -- I think it rolled over from the bottom part.

4 Q. Was that just because of the way the photograph was taken
5 of the phone?

6 A. Yes. Well, no. There is more data, so that photograph
7 was taken by our computer forensic agent, so they're trying to
8 be as -- they try and get all the data possible to make sure
9 they have a complete record.

10 Q. What's the date on that particular text message?

11 A. October 29th.

12 **MR. RUTER:** Of what year?

13 Q. Do you know what year?

14 A. I do not.

15 **MS. YASSER:** You'll have cross.

16 Q. Now, were there also a series of text messages that
17 have -- scratch that.

18 Let me show you Government's 39b/3 and b/4. Do you
19 recognize that?

20 A. That's another text message from that phone.

21 Q. And who is that text message from, and who is it to?

22 A. From Diabla to [REDACTED]-3124.

23 Q. And when was that text message received?

24 A. It appears to be 10/26.

25 Q. And what time?

1 A. 3:30 a.m.

2 Q. 39b/4, what does that reflect?

3 A. Another text from Diabla to [REDACTED]-3124.

4 Q. And when was that received?

5 A. On November 2nd.

6 Q. And, other than the address listed here, was there
7 anything else to that text message?

8 A. No, not that I observed.

9 Q. Same question for 39b/4: Anything other than the
10 address?

11 A. No, not that I observed.

12 Q. 39b/5, do you recognize that?

13 A. Another text from Diabla to [REDACTED]-3124.

14 Q. And when was that received?

15 A. November 6th.

16 Q. And what time?

17 A. 7:43 p.m.

18 Q. Are any of these addresses familiar to you?

19 A. [REDACTED] is familiar to me.

20 Q. How is that familiar to you?

21 A. I participated in a search warrant that was executed at
22 that location on or about that -- I think it was a week later.

23 Q. And what was observed at that particular location?

24 A. It was a Latino brothel suspected of drug activity.

25 Q. And you said it was about a week later; is that correct?

1 A. Yes.

2 Q. And what year was that?

3 A. 2010.

4 Q. I want to show you 39b/2. What is that?

5 A. That's another text from Diabla to [REDACTED]-3124.

6 Q. And what time is that?

7 A. It's 1:35 a.m. on the November 6th.

8 Q. Is that the same date on which Government's 39b/5 was
9 sent --

10 A. Yes.

11 Q. -- or received, rather?

12 Did you obtain a Court-certified translation of that
13 text message?

14 A. I did.

15 Q. This is the back of that exhibit. If you could read that
16 translation for the ladies and gentlemen of the jury.

17 A. 2:25, Diabla: "Daddy, you know that the baby is moving a
18 lot." Message size, from, to, and if you want the -- do you
19 want all of it, or --

20 Q. Special Agent Kelly, were you present in the courtroom
21 following the testimony of Rebeca Dueñas Franco on Monday of
22 this week?

23 A. Yes, I was.

24 Q. And, after the jury was dismissed, did you remain at
25 counsel's table?

1 A. I did.

2 MR. RUTER: Objection. May we approach, Your Honor?

3 THE COURT: Come up.

4 (Whereupon, the following discussion occurred at the
5 bench.)

6 MR. RUTER: Your Honor, I never like hearing the
7 phrase, "after the jury was dismissed." So, if I could have a
8 proffer as to what it is that was --

9 MR. MONTEMARANO: I'll join.

10 MS. YASSER: I've previously talked to you about
11 this, but, after the jury was dismissed, the Defendant was
12 being escorted out by the Marshals, and he turned to Special
13 Agent Kelly and said, "Have fun with my woman, Kelly."

14 THE COURT: Okay. And you want that for what
15 reason?

16 MS. YASSER: Well, to show that he had a possessive
17 attitude towards Rebeca Dueñas Franco just immediately
18 following her testimony. It acknowledges even that he had an
19 association with her.

20 MR. RUTER: Well, Your Honor, if I could be heard.
21 Mr. Ventura has proffered to me that he has proof of Special
22 Agent Kelly had a sexual relationship with Ms. Franco, for
23 whatever that's worth. If Government counsel were to state
24 that, then it would seem to me I might -- it may be necessary
25 for me to ask how many times did he see her, under what

1 situations, under what circumstances, and the like, which I
2 don't think is a good idea, and his comment is not meaningful
3 in any context whatsoever. Assuming that he said it, it
4 doesn't mean anything.

5 **THE COURT:** Well, the Government is on notice that,
6 if they elicit it, you get to examine on it.

7 **MR. RUTER:** Yes, and I would hope that that would
8 not be necessary, but that's where we are.

9 **MR. MONTEMARANO:** I respectfully submit that the
10 401/403 problem, as it applies to my client in terms of this
11 being a joint trial argues in favor of the Government not
12 being permitted to elicit it.

13 **MR. RUTER:** And the last thing I would say, Your
14 Honor, is that Ms. Yasser proffered the relevance that it
15 shows that there is an association between the two. Isn't it
16 apparent? They have a child together. Now, I don't see where
17 it gets anybody at all.

18 **MR. MONTEMARANO:** And that's not been denied by the
19 Defense or controverted, and won't be in the Defense cases.

20 **THE COURT:** Actually, that is true. Okay.
21 Sustained.

22 **MR. MONTEMARANO:** Thank you.

23 **MR. RUTER:** Thank you, Your Honor.

24 (Whereupon, the bench conference was concluded.)

25 **BY MS. YASSER:**

1 Q. Special Agent Kelly, we've heard the name Raudel during
2 the course of this trial. Do you know somebody named Raudel?

3 A. Raudel.

4 Q. Raudel?

5 **THE REPORTER:** Could you spell it, please?

6 **THE WITNESS:** R-A-U-D-E-L.

7 **BY MS. YASSER:**

8 Q. Who is Raudel?

9 A. He's a Mexican national. He's currently under indictment
10 in the Eastern District of Virginia for human trafficking.

11 Q. Is that sex trafficking?

12 A. Yes, ma'am.

13 Q. Have you ever heard of a man named Alex?

14 A. Yes. Yes, I have, ma'am.

15 Q. And how have you identified Alex?

16 A. Choco. He's a Hispanic male. He has a bad eye. He's
17 been identified by several sources of information.

18 Q. And has a location associated with Alex ever been
19 searched in the course of your investigation or other
20 investigations that you're aware of?

21 A. Personally, I've done surveillance on a location that I
22 associate with Alex and -- to little or no success, and I'm
23 not certain about one search that was conducted earlier on in
24 this investigation by the Prince George's County Police
25 Department, whether or not --

1 **MR. MONTEMARANO:** Objection, Your Honor. Non-
2 responsive.

3 **THE COURT:** Well, as I tried to explain, non-
4 responsiveness is the examiner's objection; however, you
5 probably have several other bases, which I will sustain on.

6 **MR. MONTEMARANO:** We'll start with relevance. Thank
7 you, Your Honor.

8 **BY MS. YASSER:**

9 Q. Can I direct you, Special Agent Kelly, to Washington,
10 D.C. area. Was there a brothel ever associated with Alex that
11 was searched there in Washington, D.C.?

12 A. Oh, yes, ma'am.

13 Q. And when was that?

14 A. I don't have the date. If you'd show me the report, I
15 can refresh my memory.

16 Q. If you give me a moment.

17 A. Yes, ma'am.

18 Q. While I'm looking for that, do you recall why that
19 particular location was searched?

20 **MR. MONTEMARANO:** Objection. Relevance.

21 **THE COURT:** Haven't heard the question. Overruled.

22 **BY MS. YASSER:**

23 Q. Do you recall why -- do you know or are you aware of why
24 that location was searched?

25 **MR. MONTEMARANO:** Objection.

1 **THE COURT:** Overruled.

2 **THE WITNESS:** There was a 911 call alleging -- I
3 believe it was gunshots.

4 **BY MS. YASSER:**

5 Q. And do you know from what number that 911 call was
6 placed?

7 A. It was the [REDACTED] 1, I believe. It's [REDACTED]-9346.

8 Q. And how or why was that particular location identified
9 with this individual named Alex?

10 A. So the call initiated a law enforcement response which
11 had caused a barricade situation, which then, once it was a
12 crime scene, entry was made. It was identified as a Latino
13 brothel. Interviews were conducted, and a photograph of who
14 I've subsequently been able to show other people identified
15 Alex was shown to people there that day, and identified as
16 Alex.

17 Q. And how was he identified in relation to the location
18 that was searched?

19 A. Owner/operator, ma'am.

20 Q. You mentioned that 911 call was placed with a number of
21 relevance in your investigation in this case, and that was [REDACTED]
22 [REDACTED]; is that correct?

23 A. Yes, ma'am.

24 Q. Did you search for the numbers -- associated with this
25 investigation, did you search in general for contact with the

1 police, contact with 911 emergency calls?

2 A. 911 calls from numbers we associated as targets, yes, I
3 did, ma'am.

4 Q. And what did that investigation reveal?

5 A. It was over 200 contacts.

6 **MS. YASSER:** No further questions.

7 **THE COURT:** Cross?

8 **MR. RUTER:** Thank you, Your Honor.

9 **CROSS-EXAMINATION**

10 **BY MR. RUTER:**

11 Q. Good afternoon, Special Agent Kelly.

12 A. Good afternoon, sir.

13 Q. You've been involved in human trafficking, if we
14 understand, since 2005; is that right?

15 A. Yes, sir.

16 Q. And, in addition to that, you were at the Border Patrol
17 of Texas for eight years before that?

18 A. Yes, sir.

19 Q. Also correct?

20 And, as a result, you've seen hundreds or thousands
21 or tens of thousands of people attempt to illegally cross into
22 the United States from Mexico?

23 A. I'd go with thousands, sir.

24 Q. With thousands?

25 A. Or over thousands. I'm not saying 10,000, but we had a

1 lot of people come through our area, sir.

2 Q. Okay. And a lot of those folks would just come by foot?

3 A. Where we worked, there was the river, so they had to come
4 across the river, and then they'd run by foot, get picked up
5 by cars, get transported to the next spot, then walk around
6 the checkpoint, and then move on through various forms of
7 transportation.

8 Q. Okay. During your time with the Border Patrol as well as
9 being involved for the last seven or more years in human
10 trafficking, a lot of these human-trafficking cases and patrol
11 cases dealt with Hispanic people; is that right?

12 A. The ones --

13 Q. A lot of your investigations have dealt with Hispanic
14 individuals?

15 A. Yeah. We didn't investigate -- we weren't -- in the
16 Border Patrol, we weren't allowed to investigate crimes as
17 part of our unit. We patrolled, interdicted, and placed in
18 proceedings, so I wouldn't --

19 **THE REPORTER:** We patrolled?

20 **THE WITNESS:** Pardon? We would patrol, interdict,
21 and place in proceedings. So, as Border Patrol agents, you're
22 not an agent or an investigator, so it's -- it's the uniform
23 branch. Just there is a distinction there. When I performed
24 in that capacity, I didn't perform as an investigator.

25 **BY MR. RUTER:**

1 Q. Okay. Nonetheless, you'd have had lots and lots of
2 contact with people who had entered the United States who were
3 from Mexico, as an example?

4 A. We had a lot of Central Americans in our area, sir.

5 Q. All right. Guatemala, El Salvador, Honduras, et cetera?

6 A. Yes, sir.

7 Q. Okay. And you also would have come into contact with
8 both males and females; is that correct?

9 A. Yes, sir.

10 Q. Adults? Adult males, and adult females?

11 A. With children too, sir.

12 Q. And children. And you've also had now about seven years
13 of investigation on human trafficking, and you've conducted
14 dozens of separate investigations; is that correct?

15 A. Yes, sir.

16 Q. And a lot of those have dealt with Hispanic people as
17 well; is that correct?

18 A. Yes, sir.

19 Q. I want to ask you: As a result of the extraordinary
20 amount of contact you have had with Central American people,
21 have you noted as a general rule the relationship that exists
22 between a man and a woman, between a male and a female?

23 **MS. YASSER:** Objection, Your Honor, as to relevance.

24 **THE COURT:** Sustained as to form.

25 **BY MR. RUTER:**

1 Q. I'll probably dance around it later, Your Honor.

2 THE COURT: Okay, but no Percy Sledge imitation, for
3 those my age or older.

4 (Laughter.)

5 BY MR. RUTER:

6 Q. You had indicated on direct examination that there was a
7 search made in Easton on July the 7th of 2010.

8 A. Yes, sir.

9 Q. And it was made because you all were afraid that there
10 could have been a juvenile individual involved in prostitution
11 at that location; is that right?

12 A. Yes, sir.

13 Q. And that's because, if we recall, someone at the brothel
14 said that there was a juvenile at that location; is that
15 correct?

16 A. Yes, sir.

17 Q. And is it a fair statement, based upon your experience
18 and investigation, that the men who frequented these places
19 prefer younger women as compared to older women?

20 A. Yes, sir.

21 Q. Is it also your experience that the people who answer the
22 phones may often times lie about exactly who it is and what it
23 is that they are selling at that time?

24 A. We've had it happen on several occasions, sir.

25 Q. And this is one where, when you, in fact, did a warrant

1 on this location, there was, in fact, no juvenile present at
2 that time; is that right?

3 A. Correct.

4 Q. And it would be fair to say that didn't surprise you, did
5 it?

6 A. No, sir.

7 Q. That didn't surprise you because you've learned, with all
8 your experience, that many people involved in this line of
9 trade lie?

10 A. Yes, sir.

11 Q. And they lie about any number of things; true?

12 A. Yes, sir.

13 Q. When you did that search, did you find any guns or any
14 weapons at all?

15 A. No. Just a bullet, sir.

16 Q. Okay.

17 **THE REPORTER:** "A bullet"?

18 **BY MR. RUTER:**

19 Q. A bullet, do we understand?

20 A. A bullet, yes, sir.

21 Q. A bullet.

22 A. A 9mm.

23 Q. Okay. And then you also did, if we understand it, a
24 bunch of searches from time to time? As an example, on the
25 Ford Expedition driven by Mr. Ventura, you all searched that

1 vehicle?

2 A. November 15th, there was a number of searches done that
3 day, sir.

4 Q. Were there any weapons found in that vehicle?

5 A. No, sir.

6 Q. And you searched the Nissan associated with Mr. Ventura;
7 is that right?

8 A. Yes, sir.

9 Q. Did you find any weapons in that vehicle?

10 A. No, sir.

11 Q. You searched a Toyota Corolla associated with
12 Mr. Ventura, didn't you?

13 A. Yes, sir.

14 Q. Did you find any weapons in there?

15 A. No, sir.

16 Q. You searched [REDACTED] on November 15th, 2010, didn't you?

17 A. Yes, sir.

18 Q. Find any weapons in there?

19 A. No, sir.

20 Q. You searched his home at [REDACTED] on November 15th,
21 2010, didn't you?

22 A. I didn't participate in that search, but it was searched,
23 sir.

24 Q. All right. And you've seen all the paperwork in this
25 case. You're the case agent. You've reviewed all this stuff,

1 haven't you?

2 A. Yes, I have, sir.

3 Q. And there was no weapons found then, was there?

4 A. No, sir.

5 Q. Okay. But you were told by many of your sources, Special
6 Agent Kelly, were you not, that Mr. Ventura here always
7 carried a sidearm?

8 A. I was -- I don't know if we were told "always," but I
9 know, on a number of occasions, people told us they saw him
10 with weapons.

11 Q. Yeah.

12 A. I wouldn't say "always," because, on September 24th, when
13 he was arrested, he didn't have any weapons either, sir.

14 Q. Oh, I was going to bring that up.

15 A. Oh.

16 Q. So he didn't have any weapons on that date either?

17 A. Not on his person. No, they didn't search the vehicle
18 that day, sir.

19 Q. Had you done any analysis on the amount of money that you
20 believe, based upon your investigation, would have been made
21 at any of the particular houses over any particular period of
22 time as an example?

23 A. The general analysis that we use for the business is 100
24 clients per girl per week. That's the normal amount, or
25 that's, from what I understand through my investigative

1 experiences, what an owner's goal is, to hit a hundred,
2 because they only have a couple of busy days. So, if you have
3 two girls and they stay the whole week, they don't get sick,
4 then -- so you're going to make 3,000 per house gross per
5 week.

6 Q. For both women, you'd earn \$3,000?

7 A. If you hit your numbers. If you get girls that clients
8 want to come to and there is not other businesses that's
9 competing with you.

10 Q. Right, but it would be a total of \$3,000, 1,500 for one
11 girl, and then \$1,500 for the other girl?

12 A. Right. And then you subtract the cost of food, the
13 condoms, the towels, the jelly, and all that stuff out.

14 Q. Okay. And then you'd expect, then, to see thousands of
15 dollars per month per location; is that accurate?

16 A. Well, that's the gross, so then you have to pay your
17 doormen, you have to pay your advertisers, your -- generally
18 that's -- the doormen are paid anywhere from 3 to \$500. The
19 advertiser, normally called the portero, would be paid 300,
20 because they have less work to do, and then -- so you're
21 losing 800 there to your employees, so then you're taking it
22 down to 2,200. You have to pay your lease. You have your
23 vehicle; you have to pay your gas. If you're in an area where
24 there is a strong gang activity, you have to pay the rent, so
25 on and so forth.

1 So, yes, they're -- generally if you're running a
2 house, you should be -- 1,500 or 2,000 a week would be
3 reasonable if you get good girls, the girls do come and they
4 work the full week, and you're in an area with not a lot of
5 competition.

6 Q. How much would you expect, then, for an operator of a
7 location to net after you factored out what the ladies are
8 paid and the supplies and the rent and any other expenses that
9 you've just named? How much then would be left over for the
10 owner or operator of a particular facility?

11 A. I'd say 1,500 to 2,000 would be a reasonable expectation.

12 Q. Okay. And so, if it's 1,500, then there is four weeks in
13 a month more or less, we're talking about, say, 4,000-plus
14 dollars per month per location?

15 A. Yes. 6,000 per month, sir.

16 Q. Okay. And, if a person had four locations, as an
17 example, then would you continue to multiply it out times four
18 locations?

19 A. If you're doing well, sir.

20 Q. Okay. And that would give you a figure of 16 to \$18,000
21 or more per month if you had four locations; is that right?

22 A. Four locations, and you're working two girls at every
23 location. That's the other thing. If you have a location
24 with two girls, you're making that. If you have a location
25 with one girl, now you're starting at 1,500.

1 Q. Okay.

2 A. So it depends on how many girls you're running. If
3 you're running a girl on delivery -- because generally you
4 don't run two girls on delivery. You run a driver, and the
5 driver, and the driver is paying for that --

6 **THE REPORTER:** A little slower.

7 **THE WITNESS:** Sorry.

8 **THE REPORTER:** Generally?

9 **THE WITNESS:** So it's not as simple as saying you
10 have four locations. You have to look at the location and how
11 many girls you have at the location and what your competition
12 is. Not a lot -- my investigation is that the majority of
13 Latino brothels and Hispanic brothels, they're not cash cases.
14 We're not seizing assets, we're not identifying assets, and
15 we're not finding large sums of money.

16 **BY MR. RUTER:**

17 Q. You're not finding -- you're not finding large sums of
18 money, period?

19 A. Not with the Hispanic brothels, no, sir. That Raudel
20 individual, as I mentioned before, he was -- he was the only
21 one that we think would might have been successful, and there
22 was no large currency seized -- seizure there.

23 Q. Okay. This man Raudel, by the way, was he the same
24 Raudel that I -- we heard testimony from concerning
25 Ms. Franco?

1 A. I believe she said she knew him, or she had heard of him.
2 I'm not sure what her exact testimony was as far as her
3 relationship.

4 Q. Well, she told you all -- one or more of your many
5 interviews before you all came here that she said that Raudel
6 was Chino's boss; did she not?

7 A. I believe, in one interview, she did say that.

8 Q. Okay. And she said that he was Alex's boss as well,
9 didn't she?

10 A. I don't recall her saying that, but I -- it's definitely
11 possible.

12 Q. She may have said it in the same breath. My recollection
13 is, in the same breath, she said, "Raudel was the boss of
14 Chino and Alex and Freddy." That's my recollection, which is
15 pretty good.

16 A. I can believe that, and he was the biggest pimp around.

17 Q. Okay. Do you know what she meant, since you were at the
18 interview, when she said that Raudel was the boss of Chino?
19 Did you understand that Chino worked for Raudel?

20 A. My investigation did not show that he was an employee of
21 Raudel, because then he would have been wrapped up in that
22 investigation out of the Eastern District of Virginia, but
23 what I understand a lot of the girls understand the owners,
24 the pimps, the operators to be is one giant Mafia. They don't
25 look at them as individuals. They look at them as a whole

1 criminal organization. They can't understand they're separate
2 as far as how we investigate and prosecute crimes. A lot of
3 the girls are here illegally. A lot of the girls have a low
4 level of education. To them, it's -- it's them, it's the
5 Mafia, it's -- they're all -- and they think all the owners
6 are together.

7 Q. And, having said that, would it not be fair to say that
8 that's precisely how Ms. Franco saw it?

9 A. In that -- I -- if you show me the context of how it was
10 put in, it might have been how she referenced at that time,
11 but the one thing with the -- and I don't know which statement
12 you're talking about, Ms. Franco, because she was interviewed
13 on several times --

14 Q. Yeah.

15 A. -- and it's my -- I try and interview people as few times
16 as possible and allow them to go with a non-government
17 organization to feel comfortable to come forward with whatever
18 their true story is. So I'm not sure at which interview
19 you're mentioning, because there was the initial one when --
20 after the child was taken and subsequent interview. So if you
21 can reference in a time frame, that might help me understand
22 it.

23 Q. Okay. And I may have to step aside to take a look at
24 that, Special Agent Kelly. You do recall that her
25 statement -- her first statement, I think, was 158 pages long.

1 Do you remember that?

2 A. The one in Annapolis?

3 Q. The one on September the -- September 29th, I believe.

4 A. With the Annapolis, Detective Hartlove and such?

5 Q. Uh-huh.

6 A. I don't know the number of pages. I know it's a large
7 statement.

8 Q. But you've read it?

9 A. I've reviewed it.

10 Q. Right. More than once?

11 A. No.

12 Q. No? I stand corrected. It's only 146 pages long.

13 But that's followed by a second interview on the
14 same day, which is 34 pages long, right?

15 A. If you're telling me the page count.

16 Q. Yeah. But, notwithstanding, if you can't recall her
17 specifically, your testimony is that it was not uncommon in
18 this trade that the women really are not familiar with exactly
19 who is running what?

20 A. The man who owns the house, because that's who they have
21 to call to get the week, or that's who like -- the other thing
22 is it's not always the girl calling for the week. I've done
23 several investigations assisting with our New York and New
24 Jersey offices where the girls that are in New York and New
25 Jersey are victims of trafficking, and then their brokers are

1 calling down here to get weeks for them here. So they know
2 who is associated with the house they're working in that week,
3 so -- but then they look at all those owners as being one
4 Mafia, one criminal organization.

5 Q. Okay. You would agree with me, Special Agent, when
6 you're investigating any crime -- and we're talking here about
7 sex trafficking -- and you're interviewing, in this case, a
8 prostitute -- and we'll talk about specifically Ms. Franco --
9 that the better questioning technique would not be to make
10 that witness any promises if you can avoid it? Would that be
11 a fair statement?

12 A. Always.

13 Q. Okay. And that's because you want to have a witness that
14 would have no bias for you or no bias against you; would that
15 be a fair statement?

16 A. Right, but I -- if you think they're victims, you also
17 want to assure them -- because one of the things with us with
18 Immigration is like, when we're interviewing someone to see if
19 there is indication of human trafficking, you know, the -- we
20 try and let them know we're not there to do any wrong to them,
21 make them feel at ease, because they have a distrust of law
22 enforcement. They have the fear of Immigration problems. So
23 it's not that we're going to promise that they're going to
24 receive a benefit, but we try and let them know that we're not
25 going to do any harm, if that makes sense. So I don't know if

1 you consider that a promise or not. It's just trying to gain
2 rapport with a potential victim.

3 Q. So would it be fair to say, put another way, that you may
4 attempt to treat a victim with kids' gloves, we might say?

5 A. Yes.

6 **THE COURT:** Mr. Ruter, can we pick it up at 2:00?

7 **MR. RUTER:** Of course we can, Your Honor.

8 **THE COURT:** Thank you.

9 Members of the jury, please remember: Don't discuss
10 the case among yourselves or with anyone else. Please be back
11 in the jury room at about five minutes before 2:00. We'll get
12 started at 2:00.

13 (Jury excused.)

14 **THE CLERK:** All rise. This Honorable Court stands
15 in short recess.

16 (Luncheon recess -- 12:52 p.m.)

17 (Afternoon session -- 1:59 p.m.)

18 **THE CLERK:** All rise. This Honorable Court now
19 resumes in session.

20 **THE COURT:** Ready for the jury?

21 **MS. YASSER:** Yes, Your Honor.

22 Oh, Your Honor, I'm sorry. We're trying to revise
23 the chart so it doesn't reflect the changes that were covered
24 up, so, to the extent Mr. Ruter needs to use it --

25 **MR. RUTER:** No.

1 **MS. YASSER:** -- during cross -- okay.

2 (Jury enters.)

3 **THE COURT:** Please be seated.

4 **MR. RUTER:** Your Honor?

5 **THE COURT:** Yes, sir.

6 **BY MR. RUTER:**

7 Q. Special Agent Kelly, you had told us on my earlier cross-
8 examination that, as an investigator, you would do everything
9 that you could never to make any promise to a potential
10 witness, and then you gave us the reasons why you would not do
11 that; is that correct?

12 A. Yes, that's what I said.

13 Q. Okay. Do you recall whether or not I had asked
14 Ms. Franco whether or not she had made any promises by the
15 authorities concerning trying to help her with her child after
16 her child had been taken away from her?

17 A. Yeah, I recall that question.

18 Q. And do you recall that Ms. Franco said no promises had
19 been made to help her with her child --

20 A. Yes.

21 Q. -- to get her child returned?

22 A. Yeah, I recall that testimony.

23 Q. Do you recall whether or not there was any other time
24 when she had given a different response to that question?

25 A. No, I do not recall. That was back in 2008, I think it

1 was, or --

2 Q. It was September -- do you recall she gave a lengthy
3 statement on September 29th of 2008?

4 A. Yes.

5 Q. And do you recall having read that statement?

6 A. I reviewed it.

7 Q. Okay. And can you recall that Detective Carraballo was
8 the lead person who did the questioning on that particular day
9 along with Detective Hartlove?

10 A. Well, I believe Detective Carraballo, when the two of
11 them worked together, was acting -- he was the interpreter for
12 Detective Hartlove.

13 Q. Okay. Can you recall the detective indicating to
14 Ms. Franco that they're investigating a murder case, and that,
15 if he has to write a letter to the Department of Social
16 Services to help her with the girl, then he'll write it, that
17 he'll give it to them?

18 A. No. I wasn't there, so I don't recall it.

19 Q. Okay. Do you recall the detective saying to her that --

20 **MS. YASSER:** Objection, Your Honor.

21 **THE COURT:** Sustained. He said he wasn't there.

22 **MR. RUTER:** Yeah. All right. So have
23 Detective Carraballo ready for me.

24 **MS. YASSER:** If you want to show it to him --

25 **MR. RUTER:** No, no.

1 MS. YASSER: -- you can show it --

2 MR. RUTER: No.

3 BY MR. RUTER:

4 Q. Special Agent Kelly, we heard these phone calls between
5 Freddy and Chino, is that right, that were played earlier
6 today?

7 A. There was, I believe, one phone call with Freddy Soriano
8 and Chino, yes, sir.

9 Q. Yeah. And do you recall that, with the second phone
10 call, they both kind of went back and forth, if you will, kind
11 of making negative comments about each other, threatening each
12 other?

13 A. I'm thinking the second phone call was the, "I'm busy.
14 I'm busy." In the short one, or you mean the one after that
15 one?

16 Q. The one after that one.

17 A. I don't remember any direct -- if you see me -- if you
18 give me the transcript, I'll review it again. I don't
19 remember any direct threats Soriano said to Chino.

20 Q. Do you recall threats the other way?

21 A. There was the mention of the message that he sent.

22 Q. Right. And, after that, do you recall them then laughing
23 back and forth talking about whether or not one of them had an
24 old woman?

25 A. Yes.

1 Q. And what did you understand that to mean?

2 A. I believe that was an insult from one pimp to another
3 pimp about the quality of women they would have had.

4 Q. Right. And that went on for a bit of time, and they both
5 laughed back and forth; did they not?

6 A. Yes.

7 Q. Okay. And, if I understand it, did you know where Chino
8 was located -- physically located when that phone call --
9 those two phone calls occurred? He was at the casinos, wasn't
10 he?

11 A. I'm trying to recall. I apologize. I don't -- I know I
12 corroborated the toll that the phone was made, but I didn't
13 check the cell tower information, so I'm not certain.

14 Q. Okay. But is it possible that he was at the casinos?

15 A. He spent a lot of times at the casinos, yes, sir.

16 Q. Yeah. And he did say initially when that -- when he
17 called, he said, "I'm busy"?

18 A. Yes, sir.

19 Q. Yeah. Did you analyze the number of phone calls between
20 Ms. Franco and Mr. Ventura?

21 A. We did.

22 Q. And did you know whether or not there were more calls
23 between Mr. Ventura and Ms. Franco as compared with phone
24 calls between Mr. Ventura and any other females, numerically?

25 A. When -- when I did review -- I didn't review all of the

1 female records, but I reviewed the records of the tolls of the
2 prostitutes. There would be a low frequency on the
3 prostitutes. Ms. Santiago was one of the higher ones that I
4 noted. With Ms. Dueñas, it was in excess of a thousand phone
5 calls, and the majority of the -- the direction of those phone
6 calls was mainly from Mr. Ventura in to Ms. Dueñas' number,
7 but -- so hers would have -- was way out of line from the
8 other females that I analyzed that I recall.

9 Q. Yes, sir. And you learned in your investigation, did you
10 not, that Ms. Franco and Mr. Ventura had a different
11 relationship than Mr. Ventura and the other females that you
12 investigated? Is that true?

13 A. Yes.

14 Q. And part of that difference in the relationship is the
15 fact that they, from time to time, lived with one another; is
16 that true?

17 A. I wouldn't -- I don't believe we ever found any of his
18 property at the places where she was living, so I don't know
19 if -- they were -- they would spend time at different
20 locations together.

21 Q. Okay. Maybe that's a better way to phrase it. They
22 spent more time together than perhaps Mr. Ventura would have
23 with the other women that you investigated throughout the
24 course of this lengthy investigation?

25 A. Correct.

1 Q. Okay. And of course they had a child together?

2 A. Currently, yes.

3 Q. Okay. Not so, to your knowledge, with any of the other
4 women that you investigated in this investigation; is that
5 true?

6 A. Just Yeniz Ruiz, the woman he lived with at [REDACTED]

7 [REDACTED].

8 Q. Was that his wife?

9 A. No.

10 Q. Did they have a child together?

11 A. Two male children.

12 Q. Okay. And do you know whether or not Mr. Ventura called
13 her his wife?

14 A. I don't know if he called her his wife or his woman.

15 Q. Okay. You showed the jurors Exhibit 39b/1D dated
16 October 29th, 2010, and, if we understand it, Ms. Franco texts
17 Mr. Ventura about the fact that Marian does not work on
18 Sundays. Do you recall that text?

19 A. Yeah. I believe she -- I don't know if she didn't work
20 Sunday or she had to leave Sunday. I don't -- if you put it
21 up --

22 Q. I was going to ask: Did you understand what it meant?

23 A. If you put it up, I can read it, and I can have a better
24 understanding.

25 Q. Okay. Well, I'm not going to do that if it's okay. You

1 don't remember, do you?

2 A. No. I don't remember if she had to leave on Sunday or if
3 she couldn't work Sunday.

4 Q. Okay. It was Ms. Franco who advised Mr. Ventura of that
5 fact; is that what happened? Her phone contacted his phone?

6 A. Yes. I took that in the manner of someone who is
7 answering to a higher-up as far as how that -- how the whole
8 text was read. "Excuse me," like you're talking to someone
9 above you.

10 Q. Okay. You don't find that at all cultural?

11 A. When you mention "cultural," in -- when I speak in
12 Spanish, if there is a man and a woman, I use the masculine
13 intended to speak, so, if you're saying the male takes
14 dominance over the female as far as in the language, I
15 don't --

16 Q. Well, then, with that, maybe we better look at the
17 message and you can further enlighten us.

18 **MR. RUTER:** Is it 39?

19 **MS. YASSER:** It is 39.

20 **MR. RUTER:** Thank you.

21 **BY MR. RUTER:**

22 Q. I'm going to take this out of the sleeve so you can read
23 it better. This is Government Exhibit 39b/1A. The question
24 is -- and do you read Spanish, sir?

25 A. No, and especially not the way they send it in the text

1 format.

2 Q. Okay. So, when you told us what this meant before, did
3 Ms. Yasser show you an English version?

4 **MS. YASSER:** It's on the back.

5 **THE WITNESS:** Oh, yes.

6 **BY MR. RUTER:**

7 Q. Okay. And she says to him, "Pardon me if I bother you,
8 but it was only to tell you that Marian does not work on
9 Sunday. I won't bother you anymore;" is that right?

10 A. Yes, sir.

11 Q. Okay. And my question was: What did you understand that
12 message to mean?

13 A. That Marian does not work on Sunday, so either she's not
14 going to work on Sunday, or -- like, if they're scheduling
15 another week in the future, she's only going to work until
16 Saturday. Something about Marian's schedule, that she's not
17 going to work, or she -- her schedule, she's a Monday to
18 Saturday girl.

19 Q. Okay. Did you know whether or not Marian and Rebeca
20 worked -- both of them worked as prostitutes -- are you aware
21 of that -- on October 29th of 2010?

22 A. No. I don't have any particular information about that.

23 Q. Okay. Do you know where Ms. Franco was located when she
24 texted this message -- where she was physically located?

25 A. I think the other text was on 10/29 as well for [REDACTED]

1 [REDACTED], if I recall, and if you --

2 Q. Yes.

3 A. -- want to refresh my memory, so I would assume she -- do
4 you want me to explain why we think -- what [REDACTED]
5 means?

6 Q. No. You already did.

7 A. But as far as why she texted it and why I think she would
8 be somewhere.

9 Q. It sounds like you used the word "assume," so we'll leave
10 that.

11 A. Okay.

12 Q. There was another text that you showed the jury. It was
13 39b/2. It was the same date, I believe. No. Maybe it
14 wasn't. It was November the 6th of 2010, and it said
15 something about, "Daddy, the baby is moving." Do you recall
16 that one?

17 A. Yes, sir.

18 Q. Okay. And what did you understand that to mean as a
19 result of your investigation?

20 A. That Ms. Dueñas was pregnant, and that she was telling
21 Mr. Ventura that the baby was moving.

22 Q. Okay. And, among Hispanic-speaking people, do you see
23 the word "daddy" used a lot?

24 A. I see "papi" a lot with the prostitutes.

25 Q. But you don't see "daddy"?

1 A. Well, "papi" means "daddy," so a lot of the girls will
2 say "papi," so --

3 Q. Okay. And the question is: This doesn't say, "papi,"
4 does it?

5 A. Well, that's the English. I don't know what it said in
6 Spanish.

7 Q. You don't know?

8 A. If you show me the Spanish, I can --

9 Q. Okay. Well, I was assuming that, when it's the
10 translation, it's done accurately?

11 A. But -- so you're asking me if the English is used a lot,
12 and I'm just telling you, when I get it, I get it in Spanish,
13 so, when you say the English form of "daddy," I'd say "papi,"
14 if I'm going to say what I normally hear when I'm talking to
15 Latino prostitutes.

16 Q. Okay. Outside of the prostitution business, because
17 you've been involved with Hispanic people for a lot of years,
18 true?

19 A. Yes.

20 Q. Have you heard males being referred to as "daddy"?

21 A. From their wives?

22 Q. Or girlfriends.

23 A. When I associate it with this prostitution business,
24 that's where I get it the most. I get called "papi," because
25 I'm in a position of authority, so just, when I come in, I

1 hear it a lot.

2 Q. All right. I had asked you earlier, I think, about this
3 Raudel, and, if I understand it, Raudel, you've now told us,
4 is under Indictment in Virginia?

5 A. He was on *America's Most Wanted*, yes, sir.

6 Q. Okay. And I had asked whether you were aware if Raudel
7 was Chino's boss. Do you recall that?

8 A. Yes, I do, sir.

9 Q. And your answer was?

10 A. Not that my investigation showed, because then he would
11 have been part of the investigation -- sorry -- in the Eastern
12 District of Virginia.

13 Q. Okay. Ms. Franco had advised you that she knew of
14 Raudel; did she not?

15 A. Yes, sir.

16 Q. Okay. Did she play any role in the investigation of
17 Raudel in Virginia?

18 A. No, sir.

19 Q. All right. Special Agent Kelly, when some -- when any
20 investigator is speaking with a potential witness,
21 procedurally and as a protocol, would it be best for the
22 questioner, law enforcement officer, not to characterize the
23 suspect, not to use any euphemisms, not to suggest whether
24 that person is guilty or not guilty, good or bad, evil or
25 angelic, et cetera?

1 A. Yes, that's -- that's a good go-by.

2 Q. Okay. And the reason you would choose not to do that
3 would be for what purpose, for what reason?

4 A. To color their testimony.

5 Q. Right. You don't -- the idea is you don't want to place
6 your personal thoughts into the thoughts of your potential
7 witness; would that be what you're saying?

8 A. Yes.

9 Q. Okay. Now, you'd reviewed, did you not, the interview on
10 September 29th of 2009? That's when Ms. Franco was speaking
11 at length with Detective Carraballo and Detective Hartlove.

12 A. Yes.

13 Q. Do you recall Detective Carraballo on a couple of
14 occasions referring to Mr. Ventura as a bad man?

15 A. I do not recall that. Like I said, it was a lengthy
16 statement, I believe.

17 Q. Okay. Well, you did review the statement; did you not?

18 A. I did.

19 Q. All right. Special Agent Kelly, did you review the
20 statement made by Ms. Franco on November 15th of 2010?

21 A. The statement and the report prepared by Detective Lee,
22 yes.

23 Q. And do you recall on that day Detective Carraballo
24 advising Ms. Franco that Mr. Ventura was a bad man?

25 A. I didn't think he was there that day, because we had a --

1 another interpreter.

2 Q. And unfortunately you're right, and I'm wrong. How about
3 Detective Lee?

4 A. Yes. Detective Lee, but he's English speaking.

5 Q. All right. Did you recall him calling Mr. Ventura a bad
6 man?

7 A. I do -- I don't know if he said "bad people" or "bad
8 man." I don't recall.

9 Q. Okay. If I showed you this document, may it refresh your
10 recollection?

11 A. Yes. I wasn't present to the interview.

12 **MR. RUTER:** If you would mark this as Defense
13 Number 12 for identification. This is Page 14 and 15 of a
14 statement given on November 15th of 2010.

15 (Witness reviewing exhibit.)

16 **THE WITNESS:** Do you want me to read all of it, or
17 just the part that you're asking about?

18 **MR. RUTER:** Just -- I've done some highlighting.

19 **THE WITNESS:** Right. I didn't know if you wanted me
20 to read all the highlights.

21 **MR. RUTER:** Yeah, but I'm asking you just to read it
22 to yourself, and then, after you're finished, I'll ask you a
23 question.

24 **THE WITNESS:** About the rest of it as well, or --

25 **MR. RUTER:** Well, I'll direct you.

1 **THE WITNESS:** I see there.

2 **MR. RUTER:** There, that, and then there.

3 **THE WITNESS:** Okay.

4 (Witness reviewing exhibit.)

5 **BY MR. RUTER:**

6 Q. Okay. So you've had a chance to review this exhibit;
7 have you not?

8 A. Yes.

9 Q. And this was the early part of the interview; is that
10 right?

11 A. Yes.

12 Q. Okay. And, having read that document now, has your
13 recollection been refreshed as to what Detective Lee said to
14 Ms. Franco about Mr. Ventura?

15 A. Yes.

16 Q. And what is that?

17 A. The transcript reflects he called him a bad man and a bad
18 person.

19 Q. Right. A couple times?

20 A. Yes.

21 Q. And you would agree with me that that probably is not a
22 good technique when you're trying to decide whether a person
23 is a potential witness in a criminal case, agreed?

24 A. Different people have different techniques. I wouldn't
25 use that one, yes.

1 Q. Yeah. And you wouldn't use it because, when you tell a
2 potential witness that the suspect is a bad man, then you may
3 plant thoughts in their brain; true or false?

4 A. True.

5 Q. Okay. And you never want to plant a thought in the
6 witness' brain, do you?

7 A. Correct.

8 Q. Okay. Ms. Franco, to your knowledge, was treated
9 differently than the other women; is that right?

10 A. By whom, sir?

11 Q. Mr. Ventura.

12 A. Yes, sir.

13 Q. And how so?

14 A. From our investigation, she didn't receive any of the
15 proceeds of her work -- her labor. He would control where she
16 lived, how she moved.

17 Q. And did you believe that that was a result of the fact
18 that Mr. Ventura felt that he was in a boyfriend-girlfriend
19 relationship with Ms. Franco?

20 A. That's not my belief, sir.

21 Q. Okay. Well, didn't Ms. Franco tell you that that was
22 what her belief was as to Mr. Ventura?

23 A. Ultimately, it is -- not in the end certainly.

24 Q. How about when she appeared in the Grand Jury in this
25 courthouse on December 7th of 2010?

1 A. I don't have the Grand Jury transcript, and I wasn't in
2 the Grand Jury.

3 Q. All right.

4 (Counsel conferring.)

5 **BY MR. RUTER:**

6 Q. Did you ever have any conversations with Ms. Franco
7 about -- well, let me rephrase it.

8 **MR. RUTER:** Excuse me one second, Your Honor.

9 **THE COURT:** Yes.

10 **BY MR. RUTER:**

11 Q. You had indicated that you had read the September 29th,
12 2008 interview of Ms. Franco, correct?

13 A. Yeah. Once again, I said I reviewed it.

14 Q. Yeah. Do you recall whether or not Detective Carraballo
15 had indicated that he would write a letter on behalf of
16 Ms. Franco in order to have her daughter returned to her after
17 she had been detained on September 26th of 2008?

18 A. I didn't know if -- I don't think she was detained on
19 September 26th, was she, sir?

20 Q. Well, there was a bust, was there not, at [REDACTED]
21 [REDACTED]?

22 A. I don't think anyone was arrested on 9/26.

23 Q. She may not have been arrested. She was there present.
24 She was a prostitute on that day, wasn't she?

25 A. Yes, as part --

1 Q. And she ended up, on September 29th, 2008, in an
2 interview, didn't she?

3 A. Yeah, but I thought she came in for that, sir.

4 Q. Well, how she got there, I didn't ask you. She was in an
5 interview, wasn't she?

6 A. Yes, sir.

7 Q. And Detective Carraballo was interviewing, wasn't he?

8 A. Detective Carraballo -- and I'm trying to pronounce his
9 name right -- and Detective Hartlove, yes.

10 Q. The question is, again, whether or not you remember that,
11 on that date, Detective Carraballo told her that he would
12 assist her in attempting to have her daughter returned to her?

13 A. No.

14 Q. You do not recall that?

15 A. I do not.

16 Q. All right.

17 MR. RUTER: If I could have this marked as Defense
18 Number 12.

19 THE REPORTER: Thirteen, I believe.

20 MR. RUTER: Or 13. Thanks.

21 BY MR. RUTER:

22 Q. And you did review this report; did you not, sir?

23 A. Yes.

24 Q. If you would read --

25 A. That's not a report; it's a transcript.

1 Q. You read the transcript, didn't you, Agent?

2 A. I reviewed it off of what I read from the -- I read the
3 report more thoroughly.

4 Q. Read Page 32 and 33 for me.

5 MS. YASSER: Your Honor, the Government doesn't have
6 any objection even though the witness has testified that he
7 wasn't present.

8 THE COURT: And you rose to tell me that?

9 MS. YASSER: Because -- to advise that, while this
10 is objectionable, we are not -- we're not offering our
11 objection at this point.

12 THE COURT: And that was important for me to know?

13 MS. YASSER: Sorry, Your Honor.

14 MR. RUTER: I'd be happy to call the Detective in
15 here, Judge.

16 (Witness reviewing exhibit.)

17 THE REPORTER: I need to hear you.

18 THE WITNESS: Oh, I'm sorry. I was just reading
19 more of the transcript.

20 BY MR. RUTER:

21 Q. The question is, Special Agent: Having reviewed this
22 document, is your recollection refreshed as to whether or not
23 there is a conversation between Detective Carraballo and
24 Ms. Franco as to whether he would or would not help her
25 attempt to get her daughter back?

1 **THE COURT:** Please don't block the jury, Mr. Ruter.

2 **THE WITNESS:** There was a statement by
3 Detective Carraballo to Ms. Dueñas, but, just to clarify, the
4 translation -- that was in Spanish, and there is a subsequent
5 translation that Detective Carraballo gave back to
6 Detective Hartlove, so -- so -- but that's what
7 Detective Carraballo said to Ms. Dueñas.

8 **BY MR. RUTER:**

9 Q. Yeah. And did he not also say that getting some kind of
10 support from a Homicide detective is, quite frankly, something
11 of great weight or consideration; is that a fair statement?

12 A. That is -- that is what Detective Carraballo said in
13 Spanish.

14 Q. Yes. Presumably to the ears of Ms. Franco, who speaks
15 Spanish?

16 A. Correct.

17 Q. All right. And the question is: Would you agree with me
18 that that statement was made in order to obtain from
19 Ms. Franco the belief that the detectives would do all they
20 could to help her obtain her child back from the Department of
21 Social Services?

22 **MS. YASSER:** Objection, Your Honor. Calls for
23 speculation.

24 **THE COURT:** Overruled.

25 **THE WITNESS:** It sounds like a statement that would

1 try and elicit her cooperation in their investigation, yes.

2 MR. RUTER: Okay. Good. All right. With that, I
3 have no further questions. Thank you.

4 THE COURT: Cross, Mr. Montemaranano?

5 MR. MONTEMARANO: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. MONTEMARANO:

8 Q. Good afternoon, Special Agent Kelly. How are you doing?

9 A. Well, and you, sir?

10 Q. Just ducky.

11 Let's stay on the 29th of September and the
12 interview of Ms. Dueñas by Detective Hartlove and Carraballo
13 and the report -- I mean, the transcript you read.

14 MR. MONTEMARANO: Defense 11, please? Thank you.

15 Q. And you've just testified that you had reviewed the
16 transcript, correct?

17 A. That page, yes, sir. I reviewed the whole transcript,
18 yeah, but I just reviewed that --

19 Q. Yeah. Just now --

20 A. Yeah.

21 Q. You testified that you previously had reviewed the entire
22 transcript?

23 A. Yes, sir.

24 Q. And you would agree, as Mr. Ruter referenced earlier, it
25 runs 158 pages. Does that sound right?

1 A. Yes, sir.

2 Q. And you recall the introductory statements by
3 Detective Carraballo and Detective Hartlove to Ms. Dueñas to
4 explain why they want to talk to her?

5 A. No, sir.

6 Q. Okay. Well, that would be, in your experience as a
7 trained investigator, one of the first things you do. You
8 tell somebody why you're there to talk to them; is that a fair
9 statement?

10 A. Yes, sir.

11 Q. You recall from your review of the transcript -- oh, by
12 the way, did you ever listen to the actual tape --

13 A. No, sir.

14 Q. -- or the CD or however it's recorded?

15 A. That one, I believe, is a digital one. No, I did not,
16 sir.

17 Q. Okay. Do you recall Ms. Dueñas laughing in response to
18 the initial introduction by Detective Carraballo and
19 Detective Hartlove?

20 A. Is this the exhibit you had the other day, sir? I recall
21 seeing what you presented at trial.

22 Q. If I might show it to refresh your recollection.
23 Defense 11.

24 A. Shoot away.

25 Q. Yes.

1 **MR. CUNNINGHAM:** What exhibit number?

2 **MR. MONTEMARANO:** Defense 11. Page 2 of the 9/29/08
3 transcript.

4 **THE WITNESS:** Yeah. That was just the other day, so
5 I recall that.

6 **BY MR. MONTEMARANO:**

7 Q. And you recall her testimony?

8 A. Yes.

9 Q. Would this be consistent with your understanding that she
10 was laughing in response to their questions; is that a fair
11 statement?

12 A. If it's on the transcript, then that's what's on the
13 audio.

14 Q. And you have no reason to think the transcript is
15 incorrect, correct?

16 A. No. I -- I obtained the transcript, sir.

17 Q. Okay. Oh, so you had it transcribed?

18 A. Yeah, I submitted the request.

19 Q. Oh, okay. So, as far as you're concerned, it's an
20 accurate recitation of what's on the tape?

21 A. Yes, sir.

22 Q. Okay. And that would roll back to your testimony -- I
23 think it was right before lunch -- where you suggested that,
24 when you meet with someone, especially someone from another
25 culture, that you're going to try to make them feel at ease?

1 Do you remember stating that under oath?

2 A. Build rapport, yes, sir.

3 Q. Yes. Build rapport. Build rapport or establish or gain
4 rapport. I don't recall what the verb was, but the idea is to
5 establish a relationship, to establish your bona fides, to get
6 the person to want to talk to you and talk to you candidly,
7 truthfully, fully, honestly; is that a fair statement?

8 A. Well, it depends if -- it depends on how you mean it,
9 like -- so the majority of the work that I do when we go to
10 these places, we're meeting potential victims of human
11 trafficking, so we're trying to gain their rapport as far as
12 that. I don't necessarily want to -- so, as far as when I say
13 that, I mean, when we're trying to develop rapport with a
14 potential victim that may have distrust of law enforcement.

15 Q. Okay. And certainly Ms. Dueñas would come within that
16 category?

17 A. Yes.

18 Q. Okay. And you'd have no reason to think that that would
19 be -- the approach being taken by Detectives Hartlove and
20 Carraballo would be any different? They'd be wanting to do
21 the same thing with someone who they believe is a victim of a
22 crime, correct?

23 A. Detective Hartlove, back in 2008, was calling me to ask
24 me which questions to ask regarding human trafficking, because
25 he had no background or basis in it at that point in time.

1 Q. That's perfectly fine.

2 Now, I'd like to ask you a few more questions about
3 the testimony you gave earlier today regarding phones. You
4 were responsible for assembling the toll records and coming up
5 with statistical -- that word and I never get along --
6 statistical data that were on the charts that Ms. Yasser was
7 asking about earlier today?

8 A. Yeah. That chart was specifically for frequency.

9 Q. And, in particular, you were identifying certain phones
10 based upon those people that your investigation has associated
11 with those particular phone lines; is that a fair statement?

12 A. Yes.

13 Q. But I'd like to invite your attention --

14 MR. MONTEMARANO: Ms. Yasser, do we have the chart?

15 MS. YASSER: Yes.

16 MR. MONTEMARANO: The one with the location
17 information.

18 MS. YASSER: Which one?

19 (Counsel conferring.)

20 MR. MONTEMARANO: Mr. Cunningham kindly provided me
21 the original. This is 40 -- is that an "h," Mr. Cunningham?

22 MR. CUNNINGHAM: No.

23 MR. MONTEMARANO: 40h/1?

24 MR. CUNNINGHAM: No. Bear with me. Let me get
25 this --

1 **MR. MONTEMARANO:** That's an "f"? Okay. 40f/1. I
2 thought my handwriting was bad.

3 **BY MR. MONTEMARANO:**

4 Q. That look familiar?

5 A. Yes, it does.

6 Q. Okay. And these are the phone numbers relating to
7 Mr. Ventura; is that correct?

8 A. Correct.

9 Q. And there is in here, I believe, one relating -- with the
10 same information on the phone numbers relating to Mr. Fuertes,
11 correct?

12 A. Yes.

13 Q. And we have 5015 number -- let's make this a little
14 bigger -- correct?

15 A. Correct.

16 Q. And that's the one that was seized from -- when he was
17 arrested, my client gave you that number or gave law
18 enforcement that number as his number, correct?

19 A. I believe that number was actually seized from him that
20 day.

21 Q. That was my understanding. It doesn't say it here, but,
22 actually, I think it was the phone -- that phone was taken
23 from his person, correct?

24 A. Well, it says arrested and gave, had on 9/25 --

25 Q. Ah. English is a little loose of the tongue.

1 A. Yeah. 9/25/08, he was arrested with that phone number.

2 Q. That's my understanding. And, on the 1672 number, that
3 was also taken from him, correct?

4 A. Correct.

5 Q. So we have no question these are associated with him,
6 correct?

7 A. Correct.

8 Q. Let's look at Fuertes Number 3. It's listed, as I
9 understand this, as "CLLO" on Ms. Dueñas' phone, correct?

10 A. Yes.

11 Q. It's listed as "Juano" on Mr. Ascencio's phone, correct?

12 A. Correct.

13 Q. It's listed as "Flaco" on a phone recovered from [REDACTED]?

14 A. Correct.

15 Q. It's listed on different phones associated with
16 Mr. Ventura as "Pacha" or "Norfo" or "Pinto," correct?

17 A. Yes.

18 Q. And then it's listed as "Chin" on two different phones;
19 is that correct?

20 A. Yes.

21 Q. And also was "Flaco" on another phone recovered from
22 Mr. Ventura's home --

23 A. Correct.

24 Q. -- correct?

25 And this is a phone for which you have toll records,

1 so I understand, from August and September of 2010?

2 **MR. MONTEMARANO:** Oh, my apologies.

3 Q. October and November of 2010, correct?

4 A. Yes.

5 Q. We don't have records from the other dates; is that a
6 fair statement?

7 A. Yes.

8 Q. And so, in '09, you have no way of knowing who was using
9 that telephone, correct?

10 A. I do have associating with that number through another
11 investigation that we were running out of Virginia through '09
12 into 2010.

13 Q. I'm not sure I follow.

14 (Counsel conferring.)

15 **BY MR. MONTEMARANO:**

16 Q. You never seized this phone, the 0076; is that a fair
17 statement?

18 A. Yes, sir.

19 Q. And you never seized 4168?

20 A. Correct.

21 Q. You don't know where it is today?

22 A. No reason to need to know, no, sir.

23 Q. You would agree, without belaboring the point, a phone is
24 an easily-transferred item? One person can give it to
25 another, can give it to another, correct?

1 A. Correct. The tolls and the frequency and who it contacts
2 is what's important.

3 Q. Correct, but there were other people calling Mr. Ventura
4 for the sake of discussion, correct?

5 A. Yes, sir.

6 Q. Other people involved in this enterprise, correct?

7 A. Correct, sir.

8 Q. And other people who were involved in operating the
9 various brothels at times after March of 2009; is that a fair
10 statement?

11 A. Yes, sir.

12 Q. In fact, those brothels continued in almost continuous
13 operation through and including taking down the organization
14 in November of 2010, correct?

15 A. Well, the Easton one, we took down, and then the
16 Portsmouth one was taken down for one reason or another. The
17 [REDACTED] was the one that was the -- there was a [REDACTED]
18 [REDACTED] address that was operational and suspected of illegal
19 activity for a time, and then that was taken down before we
20 can, you know, conduct illegal activity, so not all of his
21 brothels remained functioning throughout that time frame.

22 Q. But at least one brothel of Mr. Ventura's was in
23 operation continuously through the 10th -- the 15th of
24 November of 2010?

25 A. Yes.

1 **MR. MONTEMARANO:** No further questions, Your Honor.

2 Thank you.

3 **THE COURT:** Redirect?

4 **MS. YASSER:** Thank you, Your Honor.

5 **REDIRECT EXAMINATION**

6 **BY MS. YASSER:**

7 Q. Special Agent Kelly, you were asked questions on cross-
8 examination about your search of Easton and what compelled it.
9 Do you recall those questions?

10 A. Yes.

11 Q. And you were asked particularly about juveniles. Do you
12 recall testifying that, in your experience and training, the
13 men who frequented these brothels would prefer younger to
14 older women; is that correct?

15 A. Yes.

16 Q. So is it true that the younger woman is the better, or,
17 in terms of from the trafficker's perspective, the more
18 lucrative, a younger woman would be?

19 A. Yes.

20 Q. And is it also true that, the more lucrative as perhaps a
21 more attractive woman might be?

22 A. Yes.

23 Q. Now, you mentioned that what initiated your search of
24 Easton was this belief that there might be a juvenile there;
25 is that correct?

1 A. Correct.

2 Q. And, in your experience and training and past
3 investigations, have you ever recovered a juvenile inside a
4 Hispanic brothel?

5 A. Yes, I have.

6 Q. And what's the youngest age either you or your colleagues
7 have recovered from inside a Spanish brothel?

8 **MR. MONTEMARANO:** Objection. Relevance.

9 **THE COURT:** Sustained.

10 **BY MS. YASSER:**

11 Q. You were also asked questions with respect to weapons or
12 guns that were recovered over the course of the investigation.
13 Do you recall those questions?

14 A. Yes.

15 Q. I want to show you a few pictures, Special Agent Kelly.
16 Do you recognize Government 2a? Do you recognize that?

17 A. That's a machete, camera, condoms, and business cards.

18 Q. And do you know where that machete was recovered?

19 A. I believe that was the Nissan that was operated by
20 Mr. Fuertes.

21 Q. I also want to pass up to you --

22 **MS. YASSER:** If I may approach, Your Honor, this is
23 Government's 17i and 17m.

24 **THE COURT:** Yes.

25 **BY MS. YASSER:**

1 Q. Special Agent Kelly, do you recognize these exhibits?

2 A. Yes. They were the machetes that were recovered at [REDACTED]
3 [REDACTED] in Easton, Maryland.

4 Q. Do you also recall in the course of your investigation
5 seeing picture text messages with photos of firearms?

6 A. Yes.

7 Q. And was that seen in this case on one occasion, or more
8 than one occasion?

9 A. More than one occasion.

10 Q. This is 19a/6. Do you recognize that?

11 A. Yes. That's Mr. Avila's phone.

12 Q. Do you recognize 15c/b?

13 A. That's the text message from Mr. Soriano.

14 THE REPORTER: I'm sorry. c/b?

15 MR. CUNNINGHAM: c/6.

16 MS. YASSER: I'm sorry. 15c/6. My apologies.

17 BY MS. YASSER:

18 Q. Special Agent Kelly, was a firearm used to assault anyone
19 over the course of this investigation?

20 A. Yes, it was.

21 Q. And was that firearm recovered?

22 A. Yes, it was.

23 Q. Special Agent Kelly, do you recognize this exhibit?

24 A. That's the shotgun that was recovered after the assault
25 on Mr. Avila.

1 Q. You were also asked a lot of questions about proceeds
2 relating to sex trafficking. Do you recall that?

3 A. Yes, ma'am.

4 Q. And, just to be clear, were your answers that you gave
5 gross proceeds, or net? In other words, had you subtracted
6 for the payment of employees?

7 A. I believe I started with gross, and then went to net with
8 what my best guesstimate was of what their expenses would be.

9 Q. Special Agent Kelly, I want to show you again two
10 exhibits that were shown to you during cross, starting with
11 39b/2. Can you tell by looking at this exhibit what date and
12 time this message was sent?

13 A. November 6th, 1:35 a.m.

14 Q. That would have been just early that morning; is that
15 correct?

16 A. Yes.

17 Q. And then, this message, when was that received, I should
18 say?

19 A. November 6th, 7:43 p.m.

20 Q. So that would be later in that evening?

21 A. Yes.

22 Q. And, this message, it appears to be just an address; is
23 that correct?

24 A. Yes.

25 Q. Have you seen that before in the context of sex

1 trafficking?

2 A. Just an address?

3 Q. Yes. Have you come across that in the course of your
4 investigation?

5 A. Yes, as it relates to different things.

6 Q. What does it mean to you?

7 A. In this investigation, it meant that was where that
8 particular -- Diabla would be working on that day.

9 **MS. YASSER:** Thank you. No further questions.

10 **THE COURT:** Recross?

11 **MR. RUTER:** No recross, Your Honor.

12 **THE COURT:** Recross?

13 **MR. MONTEMARANO:** A couple, Your Honor.

14 **RECROSS-EXAMINATION**

15 **BY MR. MONTEMARANO:**

16 Q. Ms. Yasser was asking you about guns, so I'd like to get
17 something amply clear. During the course of this
18 investigation, beginning in September of '08 through March of
19 '09, my client, Mr. Fuertes, had numerous encounters with law
20 enforcement; fair statement?

21 A. Fair statement.

22 Q. Several of them were voluntary. You heard, for example,
23 Detective Hartlove's discussion how he asked my client to come
24 to the Annapolis Police Department, and that was December of
25 '08, correct?

1 A. Yes.

2 Q. But, for the most part, they were what we would call
3 unanticipated encounters with law enforcement; arrests for
4 traffic offenses, for example?

5 A. Yes.

6 Q. And those were not voluntary? He didn't roll up to the
7 police and say, "I'm driving without a license"? They pulled
8 him over for some traffic offense and found out he didn't have
9 a license, he was revoked, whatever, correct, sir?

10 A. Correct.

11 Q. And, likewise, when they raided the -- did the raid in
12 3/25/09, that wasn't announced, correct, because that's not
13 how you do raids?

14 A. I don't think that was a raid. I think that was a
15 warrant service. When you say "raid," I --

16 Q. Fair enough.

17 A. -- take it as a --

18 Q. Fair statement.

19 When they served the warrant, you don't tend to
20 announce, "We're coming over to arrest you"? That's not the
21 usual practice; fair statement?

22 A. Correct. When you do a warrant service, it's --
23 generally you want to surprise them.

24 Q. You want to surprise them. Okay.

25 And, in the course of all these surprises of Mr. --

1 and, just so we're clear, after these surprise encounters,
2 Mr. Fuertes was searched, correct, taken into custody? That's
3 actually standard and routine, correct?

4 A. Yes.

5 Q. And, if he was driving a vehicle, it ended up getting
6 searched at one time or another, correct?

7 A. Inventoried or searched.

8 Q. Or both?

9 A. Right. It just -- if you're doing an inventory search,
10 you're looking for valuables and, of that nature, you're not
11 going into places where things may be hidden, contraband,
12 stuff like that.

13 Q. Certainly. But there was, for example, the car he was
14 arrested in, in September that was ultimately searched in
15 October pursuant to a warrant, correct?

16 A. I don't think it was pursuant to a warrant.

17 Q. After the car was impounded?

18 A. Oh, are you talking in 2010, or 2008?

19 Q. 2008. I'm sorry.

20 A. 2008 wasn't a warrant.

21 Q. Okay. Again, then I'm confusing it. And, likewise, the
22 locations where Mr. Fuertes was found were searched as well?

23 A. Once again, I don't -- some locations were searched, yes.

24 Q. And, with regard to all these searches of all these
25 locations, no firearms were ever located, correct?

1 A. Correct.

2 Q. No ammunition was ever located, correct?

3 A. Correct.

4 **MR. MONTEMARANO:** No further questions, Your Honor.
5 Thank you.

6 **THE COURT:** Thank you. Counsel, approach.

7 (Whereupon, the following discussion occurred at the
8 bench.)

9 **THE COURT:** Is that it?

10 **MS. YASSER:** Yes, Your Honor.

11 **THE COURT:** Okay.

12 **MR. CUNNINGHAM:** Subject to the --

13 **THE COURT:** Right. Checking documents, that sort of
14 thing. Here is what I'd like to do. What I'd like to do is
15 send the jury home, break, and then give Mr. Ruter the rest of
16 the day to prep his witness, who has complained that he didn't
17 get enough prep time. So you get to spend some more time with
18 him, Mr. Ruter.

19 **MR. RUTER:** Your Honor, I do want the record to show
20 this. It is to build a record. I had seen Mr. Ventura for
21 four hours on Saturday in D.C. I spent another hour and a
22 half this morning, and I'll have a couple more hours, thanks
23 to the Court. I'm no farther along right now than I was
24 before. I'm going to give it every effort --

25 **THE COURT:** Two weekends ago, you mean?

1 **MR. RUTER:** Yes, sir.

2 **THE COURT:** Okay.

3 **MR. MONTEMARANO:** May it please the Court. If
4 Mr. Ruter needs a reference, I stand ready, willing, and able.
5 I've seen more of him than my wife in the last month.

6 **MR. CUNNINGHAM:** You mean --

7 **MR. RUTER:** Your Honor, the last thing we should put
8 on the record is the Court will recall that I had begun to
9 cross-examine Ms. Franco concerning a very unfortunate rape
10 that she experienced when she entered the country. There was
11 an objection, and the Court stopped me, and what happened was
12 the Government and myself agreed to speak with Ms. Franco by
13 phone this morning, and we did, and I was the only person who
14 asked her questions, as it turned out.

15 I was satisfied after listening to her answers that
16 she would testify in here that, when she was raped en route to
17 Maryland from Houston, Texas, that she was not in any way,
18 shape, or form physically harmed; rather, she was advised by
19 her -- the smuggler who helped her in the country that, should
20 she not submit to sex, the result would be he would leave her
21 out in the middle of nowhere, and she had no idea where she
22 was, and I think that does happen, of course, at least I've
23 read, Your Honor, from time to time. And that was when she
24 then submitted to his advances.

25 Our conversation was clear that she did not fall

1 down, she wasn't pushed down. Although I questioned her about
2 the terrain, whether there were trees and thickets and rocks
3 and so on, whether or not she could have in any way been
4 injured physically in any way, the answer was, "No," "No,"
5 and, "No."

6 Based upon that, I made the determination that I
7 would not ask the Government to bring her back into the
8 courtroom, continue my examination, only to have her repeat
9 the same question again, and that was done strictly as my
10 decision as a trial tactic, that it would not be helpful to
11 Mr. Ventura for the jury to hear that she was -- the rape did
12 not result in any kind of physical damage to her.

13 **THE COURT:** Thank you.

14 Okay. Here is my plan. As I said, I want to send
15 them home. I'd like to have us meet tomorrow at 9:30 a.m. for
16 the instructions conference, begin the presentation of
17 evidence at 10:00. After they're home, we can do the drill of
18 a closing, of your advising your respective clients on the
19 rights, of your telling them whether you've got impeachables
20 or not so we can get some administerial things out of the way
21 this afternoon.

22 **MR. RUTER:** Wonderful.

23 **MR. MONTEMARANO:** I'm happy to advise my client
24 today regarding his right to testify if the Court prefers.

25 **THE COURT:** No. As I said, I'd like to do that when

1 the jury is home now.

2 **MR. MONTEMARANO:** Oh, I'm sorry. Now.

3 **THE COURT:** Now. So tomorrow morning our two things
4 will be basically the instructions conference, followed by
5 Mr. Ruter's case, followed by argument.

6 **MR. RUTER:** Your Honor, I had not alerted the Court
7 that I have a sentencing hearing before Judge Bredar tomorrow
8 at 2:00 p.m., and I didn't do so prior because I wasn't too
9 sure we were going to be in the proceedings. I have not
10 talked to Judge Bredar about that problem, but I could tell
11 the Court my client is like 73 years old, and I'm hoping --

12 **THE COURT:** To get it done?

13 **MR. RUTER:** Hoping I can get fortunate, and so I'd
14 really hate to have to postpone that, and so --

15 **THE COURT:** I'll try to work around it, Mr. Ruter.

16 **MR. RUTER:** Thank you, Judge.

17 **THE COURT:** Try to get everything done tomorrow that
18 you need to get done.

19 **MR. RUTER:** Thank you.

20 **MR. CUNNINGHAM:** I have a 9 o'clock sentencing with
21 Judge Bennett. Will you call him and ask him to make it a
22 25-minute sentencing proceeding, Judge, like yours?

23 (Laughter.)

24 **THE COURT:** Well, I'm sure he's much more detailed
25 than I am. Okay.

1 **MR. MONTEMARANO:** Your Honor, I would only suggest
2 the following. There is not going to be a lot of -- there is
3 not going to be much of a free-for-all over the jury
4 instructions, and Ms. Yasser may be able to handle them on her
5 own as much as Mr. Cunningham has put the Government's views
6 in excruciating detail --

7 **THE COURT:** His objections? Yes. Okay. Well, go
8 to your sentencing.

9 **MR. CUNNINGHAM:** Judge, that's covered. I'll either
10 get somebody to cover it for me. That's not a problem. I was
11 just adding some weak attempt at levity.

12 **THE COURT:** You were poking. I understand.

13 Thank you. Please step back, counsel.

14 (Whereupon, the bench conference was concluded.)

15 **THE COURT:** Members of the jury, just to give you
16 some sense of scheduling, we, the lawyers and I, and the
17 Defendants have some work to do which will not require your
18 presence, so I'm going to send you home and ask you, again,
19 not to talk about the case among yourselves or with anyone
20 else.

21 It is anticipated tomorrow that there will be
22 perhaps some evidence from the Defense. Again, remember: No
23 defendant has an obligation to produce anything. So, over the
24 evening, the counsel will think, and the Defendants will make
25 decisions with respect to presenting evidence, but, even if

1 evidence is presented, I still anticipate that we will then
2 get to closing arguments tomorrow, to jury instructions, and
3 that the case, I hope, will be given to you to begin your
4 deliberations tomorrow.

5 If you begin your deliberations tomorrow, instead of
6 taking Friday off as I had planned, I'll bring you back in on
7 Friday, and you can continue your deliberations on Friday. So
8 just to have a sense of what you're going to be doing for the
9 next few.

10 Again, please remember: Don't discuss the case
11 among yourselves or with anyone else. Don't let anyone
12 discuss the case with you. I will see you tomorrow morning.
13 Please be in place at five minutes before 10:00 so that we can
14 get started at 10:00 a.m. Again, the lawyers and I have some
15 work to do at 9:30, so you benefit somewhat by having a half-
16 hour later start, but let me assure you we will be using that
17 time. So we'll see you tomorrow morning at 10:00 -- 10:00
18 tomorrow. Please be in place at five of 10:00 for a
19 10:00 a.m. start. 10:00 tomorrow. Good night.

20 **JUROR:** Thank you.

21 **JUROR:** Yes, thank you.

22 (Laughter.)

23 **THE COURT:** Okay. Your second early day home from
24 school, isn't it?

25 **JUROR:** It is. It's a snow day.

1 (Jury excused.)

2 **THE COURT:** Thank you. You may be seated. You may
3 step down.

4 **THE WITNESS:** Thank you, sir.

5 (Witness excused.)

6 **THE COURT:** Subject to review of documents and
7 hands-on with the evidence, I understand the Government has
8 rested?

9 **MR. CUNNINGHAM:** That is correct, Your Honor.

10 **THE COURT:** Counsel, motions?

11 **MR. RUTER:** Your Honor, we would move for judgment
12 of acquittal as to all seven counts as to Mr. Ventura;
13 however, Your Honor, given the record, I will submit without
14 argument.

15 I would say this, Your Honor. This came in the form
16 of one of our motions *in limine*. It is our position that, as
17 to Count 6, the only thing that is relevant is whether or not
18 Mr. Ventura had enticed or forced or coerced Ms. Franco to
19 engage in prostitution.

20 In that regard, I realize, reviewing the evidence in
21 the light most favorable to the Government, there is most
22 likely enough evidence to have that go forward, but it's our
23 position that, if she was involved in prostitution, it was not
24 as a result of any force or enticement or coercion of
25 Mr. Ventura, and, with that, Your Honor, I would submit.

1 **THE COURT:** I anticipate hearing more about that
2 during the instructions conference as well.

3 **MR. RUTER:** I think so.

4 **THE COURT:** Mr. Montemarano, motions on behalf of
5 Mr. Fuertes?

6 **MR. MONTEMARANO:** Thank you, Your Honor. With
7 regard to the three counts, I'm going to talk about them in
8 reverse order. As to Count 6, there is no evidence of force,
9 fraud, and coercion undertaken by Mr. Fuertes or aided and
10 abetted by Mr. Fuertes. The most we see was his presence when
11 there was physical violence directed towards Ms. Dueñas
12 Franco -- Rebeca -- who testified yesterday and the day
13 before, that he was aware of this having happened on one
14 occasion. I respectfully submit it's simply not enough to
15 establish that in the very terms of the instruction.

16 As to the transport count --

17 **THE COURT:** Let me ask the Government about Count 6
18 first of all.

19 **MR. MONTEMARANO:** Sure. That would be fine.

20 **THE COURT:** Count 6, evidence as to Mr. Fuertes?

21 **MR. CUNNINGHAM:** Your Honor, I think that there was
22 evidence that he received pay from Ventura, and certainly
23 financial benefit is a predicate or one of the components of
24 that violation.

25 **THE COURT:** Did she, Ms. Franco, not testify that

1 she had no fear of Mr. Fuertes?

2 **MR. CUNNINGHAM:** She did testify to that effect,
3 Your Honor. One of the things that we were going to ask the
4 Court during the charge conference -- and I suspect we'll
5 speak more to it during that session, but, to the extent that
6 a reckless disregard instruction would be given to the jury in
7 light of the testimony that he was present when she, you know,
8 was beaten, that it was in the context of her performing as a
9 prostitute, and this was an enterprise from which Mr. Fuertes
10 did derive a financial benefit, that, in fact, his complicity
11 is, in fact, shown by that testimony and that evidence.

12 **THE COURT:** Okay. So benefit with knowledge, you
13 say, is sufficient on Count 6?

14 **MR. CUNNINGHAM:** Yes, Your Honor.

15 **THE COURT:** Okay. Thank you.

16 **MR. MONTEMARANO:** I respectfully submit that it is
17 simply not where the knowledge is so abbreviated, so
18 attenuated, so focussed, one instance. There has to be some
19 sort of course of conduct. The Government simply cannot
20 bootstrap overarching knowledge out of one incident when
21 Ms. Dueñas, Ms. Franco, doesn't suggest that. She suggested
22 that he treated her well, he did not mistreat her, he did not
23 abuse her, he did not restrain her. He did none of the things
24 which the elements set out in the instruction call for, which
25 is the reason I cross-examined her in that very vein.

1 I respectfully submit the Government simply has not
2 made force or fraud or coercion from Mr. Fuertes directed
3 toward Ms. Franco, and we would respectfully request that the
4 Court grant the motion.

5 For the record, my client will not be putting on a
6 defense, so we would ask that the Court's ruling be, in
7 essence, as we will be making it in a renewed fashion after we
8 rest.

9 **THE COURT:** Okay. Your next argument?

10 **MR. MONTEMARANO:** As to the transport count, once
11 again, from the terms of the instruction, there is no
12 suggestion that he aided and abetted transport. He did not
13 transport the girls in interstate commerce. He was not
14 involved in picking them up at the bus station, for example,
15 buying tickets, nothing of that sort.

16 The perfect example of the rather clear bifurcation
17 is the photograph we were shown in evidence earlier today -- I
18 believe it's in the 40s -- of the silver Expedition, the woman
19 in the pink shirt getting out down in Portsmouth. Mr. Fuertes
20 never did any anything of that sort, and he's not observed at
21 any time doing anything of that sort.

22 I respectfully submit that the Government has not
23 made the transportation count, the Mann Act count.

24 **THE COURT:** Anything further?

25 **MR. MONTEMARANO:** We would submit as to Count 1 of

1 the § 371 conspiracy.

2 **THE COURT:** Okay. I think there is sufficient
3 evidence to get to the jury, so the motions will be denied,
4 although I do understand the arguments you will be making,
5 Mr. Montemarano.

6 Mr. Ruter, please advise your client.

7 **MR. RUTER:** Yes, Your Honor.

8 Mr. Ventura, do you want to stand up, please.

9 Mr. Ventura, you have a right in this case to
10 testify if you choose, or not to testify if you choose. If
11 you were to decide not to testify, Judge Quarles would advise
12 the jury that they could not think anything badly about you,
13 that they couldn't draw any what they call an inference -- any
14 negative inference or belief that, as a result of your not
15 testifying, that you're trying to hide something from them.

16 In the event that you were to decide to testify,
17 what would happen is I will question you. You'll be sitting
18 right over there on the witness stand. I will direct your
19 examination, and, after I am completed with my examination,
20 the prosecutors, either Mr. Cunningham or Ms. Yasser, would
21 have an opportunity to cross-examine you as to all matters
22 that I have questioned you about and any other matters that
23 Judge Quarles believes to be relevant and proper under the
24 laws of this country and given the facts of this case.

25 **THE COURT:** Mr. Ruter, let me interrupt you now to

1 inquire of the Government whether it has convictions with
2 which it intends to impeach Mr. Ventura?

3 **MR. CUNNINGHAM:** No, Your Honor.

4 **THE COURT:** Thank you.

5 **MR. RUTER:** Okay. And, Mr. Ventura, His Honor just
6 asked the Government if you had any convictions -- any
7 criminal convictions which they might wish to bring to the
8 jury's attention so as to impeach you. They have answered
9 that there are no such convictions. Therefore, if you had
10 been convicted of any other crime -- if you had been, it will
11 not be brought up in this courtroom.

12 Do you understand that so far?

13 **DEFENDANT VENTURA:** Uh --

14 **MR. RUTER:** I'm not quite done yet. Do you
15 understand what I've just said so far?

16 **DEFENDANT VENTURA:** If you don't let me talk, how am
17 I going to talk?

18 **MR. RUTER:** All right. That's a fair -- that's a
19 fair comment.

20 The last thing I do want to say, Mr. Ventura, is, a
21 couple of Saturdays ago, did you and I have occasion to meet
22 and to discuss this very topic, as to whether or not you
23 wished to testify or not to testify?

24 **DEFENDANT VENTURA:** Sir, I have to question, back in
25 March -- March 27th, how many months it had been since you had

1 even seen me or seen my face? You said you didn't know. I am
2 going to testify in front of the Grand Jury --

3 **INTERPRETER GOLDSTEIN:** The Interpreter was
4 questioning as to the use of "Grand Jury," Your Honor.

5 **DEFENDANT VENTURA:** I have never had the opportunity
6 to be prepared for this case, and never has Mr. Cunningham or
7 the prosecutors ordered for the evidence to be given to me so
8 that I could prepare for this case. I never heard the CDs. I
9 never heard the testimony of Ms. Franco either. Photos of
10 supposedly something with Ms. Franco -- it looked like an
11 infection of some kind, but I actually see that those pictures
12 must have been pictures of men.

13 **THE REPORTER:** I'm sorry. Must have been?

14 **INTERPRETER GOLDSTEIN:** "Must have been pictures of
15 men."

16 **DEFENDANT VENTURA:** Those are false pictures.

17 I sent 20, 25, to 50 letters throughout the 28
18 months since I've been arrested, and no defense attorney has
19 ever sat down with me to go over the evidence. Only thing
20 I've been told is, "Just remain silent. When it's your turn,
21 you can talk." When I'm dead, how can I talk? I was never
22 given the chance. Not just necessarily the attorney who is
23 here and is representing me in this case, but before him. I
24 want to say that, before any of them -- I would certainly hope
25 that all this is being recorded. And I think that they have

1 not wanted to show me -- the gentleman over there -- not
2 wanted to show me the evidence because they wanted to convince
3 the witness that they -- the witnesses were being paid.

4 All this time, I've maintained silence, and I have
5 not been able to talk to any judge. I would love to yell or
6 scream, but I can't, because I don't have any help. But I
7 have written letters asking for help regarding my situation.
8 It's illegal for -- according to a book that I've been
9 reading, it's illegal for any prisoner to be brought up
10 against a wall or whatever and shot, because at least that one
11 gets told that he's going to be shot because he's set a bomb
12 somewhere.

13 On the 27th of March, I was woken up at CDF and told
14 only that I had a court date, and I said, "Court? I've never
15 received any letters to say that I'm going to be taken up for
16 a trial." I think soldiers are prepared before they go to
17 war, don't they? They're told when the bomb is going to fall
18 on them so they can protect themselves or learn to use a
19 weapon, right, or how to at least salute their bosses? That's
20 what I think. I'm not sure. In my country, I lived near
21 soldiers, and I saw that at least they were prepared to go to
22 war.

23 In my case, I've seen that I've never had the
24 opportunity to see the evidence, to prepare myself for the
25 case, and I don't know if you know it, but there has been some

1 corruption as far as my case is concerned. Eduardo Balarezo
2 said he came here -- Eduardo Balarezo -- to prepare my case.
3 The prosecutors are playing. They're playing a game, but I'm
4 not playing, because this is my life. The attorneys between
5 them -- all of them have been playing games, and I know the
6 Judge isn't going to hear me, but the attorney's not going to
7 listen to me. I'm not paying a penny out of my pocket to him.
8 It's obvious that he'll listen to the Government much better.

9 Even -- if any -- if any attorney had listened to
10 me, I wouldn't be here. I would be outside working in my
11 regular job. I'm a plumber -- a professional plumber. That's
12 what I would be doing. I think nobody showed those pictures,
13 I don't think. He didn't either. You've seen --

14 **INTERPRETER GOLDSTEIN:** The interpreter is
15 requesting that the gentleman please talk slower and in
16 shorter gaps for me to be accurate.

17 **THE COURT:** Thank you.

18 **INTERPRETER GOLDSTEIN:** Thank you, sir.

19 **DEFENDANT VENTURA:** And Mr. Kelly and Hartlove, I
20 don't think they've seen me out on Pennsylvania Avenue when I
21 started working from Route 5 to Route 95. I was the assistant
22 to the foreman. I was the one driving the truck and machines
23 in the back on the trailer. Am I going to have time to answer
24 a phone when I'm answering an emergency to cut a pipe because
25 there is something wrong? Those pictures haven't been shown

1 by Mr. Kelly, and I saw him on the corner with a camera. Many
2 prostitutes told me that he was looking for me, and I'll tell
3 you why.

4 His friend, Hartlove's, whose name is Lee -- I have
5 a friend, Walter Franco. The agents met with this Walter
6 Franco, and they told him I was a bad person, a person -- a
7 bad person, somebody that is involved in prostitution, and I
8 agree that that was bad. I like women, but the point here is,
9 if I have a girlfriend and I ask her out to dinner and ask her
10 to the casino --

11 **INTERPRETER GOLDSTEIN:** Sir, I'm telling the
12 gentleman he needs to let me finish. Otherwise, you're not
13 going to hear what he wants you to hear.

14 **DEFENDANT VENTURA:** I'm sorry.

15 I don't think it's a crime to have a girlfriend. It
16 would be ungentlemanly of me to ask, "Are you a prostitute?
17 If you're a prostitute, I won't go out with you." The point
18 is that, that day that I had a fight with Mr. Walter Franco,
19 that's not the only thing Mr. Kelly found on my criminal
20 record, and I want to say here in front of everybody that this
21 gentleman kept me from getting renewal on my residency. They
22 kept away the receipt from Anumpo Chapa (phon), who is an
23 attorney. They already had a plan. They offered him less
24 than three years.

25 I don't care what they've been doing, but I know

1 that they've been violating the rights of a prisoner,
2 destroyed my life, and I guess I don't care about that either.
3 In their conscience, they know I'm not a bad person or that
4 I've been involved in bad things. I've worked all my life in
5 Washington, D.C., and I've never moved from this area, and,
6 all the time, they've been following me.

7 **THE COURT:** Mr. Ventura, we are beyond the point
8 where this is helpful to me.

9 Finish your advice, Mr. Ruter, if you would.

10 **MR. RUTER:** Thank you, Your Honor.

11 Mr. Ventura, I think where I was last: Two
12 Saturdays ago, when I visited you at the jail, did we have
13 occasion then to discuss the rights that you had either to
14 testify or not to testify?

15 **DEFENDANT VENTURA:** Can I talk?

16 **MR. RUTER:** Well, I think it's a "yes" or a "no."
17 You can --

18 **DEFENDANT VENTURA:** The question is that you want --

19 **INTERPRETER GOLDSTEIN:** One moment, sir, please. We
20 can't do it, sir.

21 **THE COURT:** Okay. Please be quiet.

22 I'm going to interrupt this advice of rights and go
23 to the advice of rights, Mr. Montemarano. Mr. Ventura, listen
24 to Mr. Montemarano.

25 **MR. MONTEMARANO:** Good afternoon, Kerlin. How are

1 you? Did you hear Mr. Ruter's explanation of the right to
2 testify as given to Mr. Ventura?

3 **DEFENDANT FUERTES:** Yes, sir.

4 **MR. MONTEMARANO:** And we've discussed this before?

5 **DEFENDANT FUERTES:** Yes.

6 **MR. MONTEMARANO:** We've discussed this for many
7 weeks before this trial? And I've explained to you as
8 follows --

9 **DEFENDANT FUERTES:** Yes.

10 **THE REPORTER:** I need to have the answer first
11 before you start the next question.

12 **MR. MONTEMARANO:** And I've explained to you as
13 follows: You have the absolute right to testify. Only you
14 can assert or give up that right. If you choose not to
15 testify, it will not be held against you, and the Judge will
16 instruct the jury they cannot hold it against you. You will
17 not be thought to be guilty simply because of your silence.

18 In addition, you have no obligation to put on any
19 form of defense, call any other witnesses. If you choose,
20 however, to put on a defense, call witnesses, or take the
21 stand and testify, you could be cross-examined by the
22 Government attorneys and asked questions about what you say
23 and about other relevant and appropriate matters.

24 **THE COURT:** Mr. Montemaranano, let me interrupt you
25 here to inquire of the Government whether it has convictions

1 with which it intends to impeach Mr. Fuertes should he take
2 the stand?

3 **MR. CUNNINGHAM:** There are, Your Honor, yes.

4 **THE COURT:** They are?

5 **MR. CUNNINGHAM:** From Virginia, Your Honor.

6 **THE COURT:** The offenses?

7 **MR. CUNNINGHAM:** Actually, excuse me one second. If
8 I can grab the file, Your Honor, I'll tell you.

9 **MR. MONTEMARANO:** Mike, is one of them the
10 Immigration fraud?

11 **MR. CUNNINGHAM:** Well, there is Immigration fraud.
12 I can --

13 **MR. MONTEMARANO:** We're aware --

14 **MR. CUNNINGHAM:** There is an aggravated identity
15 fraud conviction out of Virginia as well.

16 **MR. MONTEMARANO:** The 27 months?

17 **MR. CUNNINGHAM:** Yes.

18 **MR. MONTEMARANO:** I'm aware of a conviction in the
19 Eastern District of Virginia, Your Honor, out of Richmond. My
20 client, represented by counsel, took a plea to an Immigration
21 fraud offense, received a 27-month sentence, which ended this
22 past November, so he was awaiting trial here in Baltimore on
23 this case, but was actually serving time out of Virginia, if
24 the Court follows, still in BOP, slash, Marshals' custody, but
25 I'm not aware of any others than that.

1 **MR. CUNNINGHAM:** That's correct, Your Honor.

2 **THE COURT:** Okay. So it's not aggravated identity
3 fraud; it is Immigration document fraud?

4 **MR. CUNNINGHAM:** Your Honor, I thought the -- I
5 actually thought the charged offense was a RICO count, but
6 that it captured the -- essentially the document fraud kind of
7 conspiracy.

8 **THE COURT:** Okay. And I would, of course,
9 Mr. Montemarano, permit impeachment with that conviction.

10 **MR. MONTEMARANO:** Thank you, Your Honor.

11 So you understand, your convictions in Virginia for
12 Immigration fraud would -- could be used to discredit you.
13 You understand that?

14 **DEFENDANT FUERTES:** Yes.

15 **MR. MONTEMARANO:** In addition, and more important,
16 that I explained to you when the trial began that statements
17 that you made to the police were kept out of evidence by a
18 ruling of the Court. If you take the stand, the Court could
19 revisit that decision and could let the Government use those
20 statements by you to impeach you, but only if you take the
21 stand. Based upon that, we discussed what your options were;
22 did we not? And I told you my advice was not to testify. Do
23 you understand all that?

24 **DEFENDANT VENTURA:** Yes, sir.

25 **MR. MONTEMARANO:** What is your decision?

1 **DEFENDANT FUERTES:** Not to testify.

2 **THE COURT:** Thank you.

3 **MR. MONTEMARANO:** Thank you, Your Honor.

4 **THE COURT:** Mr. Ruter?

5 **MR. RUTER:** May I again?

6 So, Mr. Ventura, when you and I met two Saturdays
7 ago, I gave you a written letter which outlined your rights.
8 We also discussed on that day that, if you were to decide to
9 testify, you'd be cross-examined by the prosecution. They
10 also, if they wanted to, could then introduce this evidence,
11 the statements that you made, which one of them was recorded,
12 reduced to writing on a transcript, and I advised you at that
13 time, and I advise you again today that it's my opinion that
14 you should elect not to testify.

15 If you do testify, you need to know that, if the
16 jury were to find you guilty and if Judge Quarles found at the
17 time of sentencing that you had perjured yourself while
18 testifying, the Court could increase your sentence as a result
19 of the testimony that you gave which he found to be
20 untruthful. It doesn't mean that he would, but he could, and
21 that could add additional time to your sentence.

22 Do you understand all that? Mr. Ventura, I'm going
23 to ask you this.

24 **DEFENDANT VENTURA:** And how do you know they're
25 going to find me guilty?

1 MR. RUTER: I said, "if you are found guilty."

2 || "If."

3 **DEFENDANT VENTURA:** If you know they're going to
4 find me guilty because you already negotiated together. I'm
5 going to testify, sir, and I'm going to say the truth.

6 MR. RUTER: Mr. Ventura --

7 || **DEFENDANT VENTURA:** If you --

8 **THE COURT:** Thank you, Mr. Ruter. Thank you. We
9 have your client's decision.

10 **MR. RUTER:** Thank you, sir.

11 **THE COURT:** Thank you. We are in recess.

12 **THE CLERK:** All rise. This Honorable Court stands
13 in recess until tomorrow morning at 9:30.

14 **THE COURT:** Marshals, will you keep Mr. Ventura here
15 until Mr. Ruter releases you? Thank you.

16 **MR. RUTER:** Your Honor, we'll probably do that at
17 the lockup.

18 **THE MARSHAL:** Okay. I got you, Judge.

19 **DEFENDANT VENTURA:** I don't want to talk to him in
20 this -- I want to have a camera, because I want the
21 opportunity to be prepared.

22 **THE MARSHAL:** Sir, there is no one left to talk to.

23 Let's go.

24 (Proceedings adjourned.)

25

1 I, Martin J. Giordano, Registered Merit Reporter and Certified
2 Realtime Reporter, certify that the foregoing is a correct
3 transcript from the record of proceedings in the
4 above-entitled matter.

5
6 _____
7 Martin J. Giordano, RMR, CRR

_____ Date

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